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MONTANA INDEX OF ENVIRONMENTAL PERMITS

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MONTANA INDEX OF ENVIRONMENTAL PERMITS

Compiled by
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Revised by
Stephen E. Medvec

First Printing
May 1976

Second Printing
August 1976

Third Printing
January 1978

Revised Printing
November 1981

Montana State Legislature
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TED SCHWINDEN
GOVERNOR

State of Montana
Office of the Governor
Helena 59620

MESSAGE FROM GOVERNOR TED SCHWINDEN

This Index of Environmental Permits has been prepared through the cooperative efforts of the Department of Health and Environmental Sciences and the Environmental Quality Council. It serves as an example of how the executive and legislative branches of state government can work together for the greater good of Montana.

The Index is designed for use by both major corporations and small operators interested in development projects in Montana. It summarizes the process of obtaining an environmental permit. The Index of Environmental Permits should assist the state in one of the primary goals of my administration --- promoting economic development in Montana without adversely affecting our unique and fragile environment.

Ted Schwinden

TED SCHWINDEN
Governor

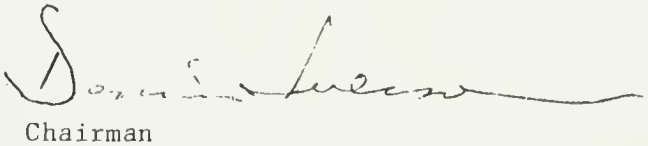
MONTANA ENVIRONMENTAL QUALITY COUNCIL

Rep. Dennis Iverson, Chairman

The Montana Legislature's Environmental Quality Council was established in the early 1970's by the Montana Environmental Policy Act (MEPA). MEPA charged the Council with researching and reviewing state regulations and policies affecting Montana's environment, gathering information on current environmental issues, and recommending measures to "foster and promote the general welfare, to create and maintain conditions under which man and nature can coexist in productive harmony, and fulfill the social, economic and other requirements of present and future generations of Montanans."

As part of its efforts to fulfill these responsibilities, the Environmental Quality Council presents this Index of Environmental Permits, developed in cooperation with the Montana Department of Health and Environmental Sciences. The Index should better enable developers and government officials in identifying and insuring compliance with applicable environmental laws and regulations. By facilitating this process, Environmental Quality Council hopes to encourage sound economic development, which is a vital part of Montana's unique environment.

The Environmental Quality Council staff members should be considered a primary source of information on the state's environmental laws and programs. Don't hesitate to contact them for help.



Chairman
Environmental Quality Council

DEPARTMENT OF HEALTH & ENVIRONMENTAL SCIENCES

John J. Drynan, M.D., Director

The basic functions of the Department of Health and Environmental Sciences are to protect and promote the health and welfare of the people of Montana through the implementation of beneficial public health and environmental protection programs and the enforcement of public health and environmental laws and regulations. It is the responsibility of the Department to assess health care needs and problems; in cooperation with local and private sources, to develop and implement programs designed to meet health needs and alleviate problems; to continually evaluate current public health programs; and to administer programs for the protection of the state's air and water quality and management of solid and hazardous wastes.

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INTRODUCTION

The Index of Environmental Permits was prepared through mutual agreement between the Environmental Quality Council and the Department of Health and Environmental Sciences in an effort to consolidate a comprehensive list of permits and licenses that must be obtained in order to engage in activities having potential impact on the environment in the State of Montana. These agencies intend that the Index will assist persons contemplating such activities. If a proposed project even remotely resembles any of the areas of regulation listed here, the appropriate authorities should be contacted for more complete information, forms, time requirements and so forth.

The Permit Checklist presents the Index's organization in summary form. By proceeding down the checklist, the reader should be alerted to the types of regulations that may apply to his or her proposed activity.

Several indexes are provided to increase the utility of the Directory. Index I contains a listing of state permitting agencies and the activities they regulate. Index II lists state agency regional offices that may be contacted for specific information and permit applications. Index III lists local permitting authorities and the types of permits with which they are involved. Index IV lists federal agencies having regulatory responsibilities for activities undertaken in the state. Index V is an alphabetical listing of all topics treated in the Directory.

WARNING: During the compilation of this Index, every effort was made to be accurate and comprehensive. However, this is not a legal document and should not be relied on exclusively to determine legal responsibilities. In most cases, the Index will alert the citizen to the need to obtain permits or licenses, but more detailed information regarding standards, operating requirements, enforcement, and other non-permit aspects of the law, always should be obtained from the administering agency before proceeding with a project.

It should also be noted that this Index is primarily concerned with activities that may directly impact the physical environment. For information regarding business licenses, taxes, and general non-environmental permit requirements, contact the License Coordinator, Division of Economic and Community Development, Montana Department of Commerce.

SPECIAL AREAS. If the development is to be located in one or more of the following types of special areas, the appropriate authorities should be consulted for special land use and activity restrictions:

- Airport Zones
- Antiquity Sites
- Conservation Districts
- Floodway or Floodplain
- Forest Areas
- Highway Right-of-Way
- Lakeshores
- State Lands
- Streambeds - Streambanks - Wetlands
- Open Spaces/Natural Areas

GENERAL BUILDING AND CONSTRUCTION. All types of developments and activities may be subject to the following types of regulations:

- Building Codes & Restrictions
- Planning and Zoning
- Fire Inspection

WATER. If the development requires the use of water, the development of a water supply or sewage system, or discharge into state waters, permits or licenses may be required from the Department of Health & Environmental Sciences or the Department of Natural Resources & Conservation.

SPECIFIC CATEGORIES. In addition to the statutes and regulations listed above that may apply to all types of developments, if the project falls into one or more of the following categories, additional regulations may apply:

- Agriculture
- Carriers - Transportation
- Commercial - Industrial - Energy
- Food Processing & Service
- Forestry
- Hunting - Fishing - Wildlife
- Lodging - Camping
- Mining
- Oil & Gas Drilling
- Road Use - Fuels
- Solid/Hazardous Wastes
- Subdivisions
- Utilities
- Weather Modification

MEPA. Any project which may have a significant impact on the environment may require preparation of an environmental impact statement.

SPECIAL AREAS

If the development or activity is to be located in one of the following special areas, check with the appropriate authorities for special land use and activity restrictions.

AIRPORT ZONES

1. Applicability

The height of buildings and structures is regulated within two miles of public airports. Searchlights and other lights may be prohibited. Permits for construction, vegetation and other vertical obstructions must be obtained from the local governing body that owns or operates the airport.

Statute: Airport Zoning Act, 67-6-101 et seq., MCA

Contact: Local Governing Body
Zoning Board

2. Application Requirements

No permit may be granted to an applicant for construction in an airport zone if the structure will become a hazard to air navigation. A variance may be granted, however, if enforcement of the rules would cause unnecessary hardship, the proposed construction is not contrary to the public interest and the new structure does not present an immediate hazard to safe flying conditions.

Statute: 67-4-311,313, MCA

3. Criteria

The local governing body must establish criteria and guidelines for regulation of the airport zone. Among others, the following criteria

must be considered: Safety of airport users; character of flying operations; noise levels; terrain; future development, and Federal Aviation Administration regulations.

Statute: 67-4-203, MCA

ANTIQUITY SITES

1. Applicability

A permit from the historic preservation office is required to excavate in a registered antiquity site. Permits are available only to museums, academic institutions, historical societies and so forth.

Statute: Preservation of Antiquties Act, 22-3-421, et seq., MCA

Contact: Montana Historical Society

2. Environmental Review Requirements/State-Owned Lands

Whenever any state agency prepares an environmental impact statement on any project, and the EIS identifies heritage properties on state-owned land which may be impacted by the project, the agency must consult with the state heritage preservation officer to develop plans to avoid or mitigate such impacts. The applicant for a permit, lease or license may be required to develop such a plan. (See Montana Environmental Policy Act, Page 113)

If adverse impacts on such properties cannot be adequately avoided or mitigated, the license, permit or lease may be denied.

Statute: 22-3-434, MCA

CONSERVATION DISTRICTS

1. Applicability

Lands located within a Soil and Water Conservation District may be subject to land use regulations adopted and administered by the Conservation District Supervisors. Check with local Conservation District supervisors for specifics. Types of activities regulated may include the following: engineering operations for dams, dikes, ponds, ditches, fences, and other construction; cultivation methods or grazing, including contour cultivating and furrowing, sowing, planting,

seeding and forestation; cropping and tillage practices; and other practices to prevent soil erosion.

SEE: AGRICULTURAL ACTIVITIES, P. 36
FORESTRY, P. 56
SUBDIVISIONS, P. 103

Statute: 76-15-701 et seq., MCA

Contact: Soil and Water Conservation District Supervisors

FLOODPLAINS AND FLOODWAYS

1. Applicability

Artificial obstructions and nonconforming uses within a designated floodplain or floodway require a permit from the local governing body or from the Department of Natural Resources and Conservation if local authorities have not adopted rules.

Statute: Floodplain and Floodway Management Act, 76-5-101, et seq., MCA

Rule: 36.15.101, et seq., , ARM

Contact: Local Governing Body
Department of Natural Resources and Conservation
Engineering Bureau

2. Application Requirements

The application for a permit for obstructions or uses in a designated floodplain or floodway must be submitted to the Department or local governing body and contain required information, including maps, plans, profiles and specifications of the obstruction or use of the watercourse or drainway.

Statute: 76-5-405(1), MCA

3. Procedure for Obtaining Permit

Permits for obstructions or uses in a designated floodplain or floodway must be approved or denied within a reasonable time, usually 60 days.

Statute: 76-5-405(2), MCA

4. Fees

An application fee of $10 is required for a floodplain or floodway obstruction permit.

Statute: 76-5-405(3), MCA

5. Criteria

The following criteria must be considered in evaluation of the permit application: danger to life and property by water that may be backed up or diverted by the obstruction or use; danger that the obstruction or use may be swept downstream to the injury of others; the availability of alternate locations; permanence of the obstruction or use; anticipated development in the area and other factors specified by law.

Statute: 76-5-406, MCA

FOREST AREAS: BURNING PERMITS

1. Applicability

During the forest fire season (May 1 - September 30 or as extended), permits are required from the recognized protection agency for the area (county, state or Forest Service) to ignite or set a forest fire, slash-burning fire, land-clearing fire, debris-burning fire or an open fire within forest lands. Air pollution permits also are required from the Air Quality Bureau of the Department of Health & Environmental Sciences.

Statutes: 7-33-2205,75-2-211 and 76-13-121, MCA

Rules: 16.8.1405; 26.6.301-304,501-503, ARM

Contact: County Sheriff or Board of Commissioners

Department of State Lands
Forestry Division Area Supervisor

National Forest Service
Forest Supervisor

Department of Health & Environmental Sciences
Air Quality Bureau

FOREST AREAS: CABIN SITES

1. Applicability

Licenses for cabin sites on state forest lands may be obtained from the Department of State Lands, Forestry Division. Department rules govern use and maintenance of such sites.

Rule: 26.6.401, ARM

Contact: Department of State Lands
Forestry Division

FOREST AREAS: CHRISTMAS TREE CUTTING

1. Applicability

A permit for Christmas tree cutting on state land must be obtained from the Department of State Lands.

Rule: 26.6.402, ARM

Contact: Department of State Lands
Forestry Division

FOREST AREAS: PORTABLE SAWMILLS

1. Applicability

A license from the Department of State Lands is required to operate a portable sawmill on private, state or federal forest lands.

Statute: 76-13-502, MCA

Contact: Department of State Lands
Forestry Division

2. Application Requirements

An applicant for a license to operate a portable sawmill must apply to the Department in writing, stating name, location of proposed sawmill, capacity of sawmill and anticipated date of initial operation.

Statute: 76-13-503(1), MCA

3. Fees

The application for a portable sawmill license requires a $2 fee.

Statute: 76-13-503(2), MCA

FOREST AREAS: REMOVAL OF TIMBER

1. Applicability

Permits for removal of dead or inferior timber from state forests are required from the Department of State Lands or from the Board of County Commissioners on county forests. Permits may be issued free of charge to residents of a county to use dead or inferior timber for fuel and domestic purposes. Permits also may be issued to citizens of Montana for commercial purposes at commercial rates without advertising for timber on state or county forests in quantities of less than 100,000 board feet, or in cases of emergency due to fire, insects or blowdown. Farmers, ranchers and prospectors also may obtain permits for timber on state forests in quantities not to exceed 25,000 board feet for domestic purposes in the repair and development of the farm or ranch.

Statutes: 7-8-2608, 2609; 77-5-211, 212, 213, MCA

Contact: Board of County Commissioners

Department of State Lands
Forestry Division Area Supervisor

2. Fees

Fees are set annually by the Board of Land Commissioners. Check with the Department regarding the required fees.

Statute: 77-5-204(4), MCA

FOREST AREAS: SLASH DISPOSAL

1. Applicability

Fire hazard reduction agreements and the posting of a bond with the Department of State Lands are required before conducting any timber cutting or timber stand improvements on private lands, or right-of-way clearing by public or private utilities. The Department must be notified at least 10 days prior to any clearing for right-of-way. The Department will issue a certificate of clearance when the agreement for reduction of fire hazard has been executed.

Statute: 76-13-407 through 413, MCA

Rules: 26.6.501-503, ARM

Contact: Department of State Lands
Forestry Division Area Supervisor

HIGHWAY ADVERTISING

1. Applicability

A permit is required from the Department of Highways for outdoor advertising signs along the right-of-way of interstate or primary highways. Standards for permitted advertising are outlined in the statute and rules.

Statute: Outdoor Advertising Act, 75-15-112 et seq., MCA

Rules: 18.6.201-272, ARM

2. Application Requirements

The applicant for an outdoor advertising permit must complete a form furnished by the Department. The owner of the land affected must agree to the erection or maintenance of the advertising sign.

Statute: 75-15-122(1), MCA

3. Fees

The initial fee is $6. Permits are issued for 3 years and renewed every 3 years on payment of $3.

Statute: 75-15-122(1),(2), MCA

HIGHWAY RIGHT-OF-WAY: APPROACH PERMITS

1. Applicability

Permits are required from the Department of Highways for the construction of driveways and other approaches intersecting public streets and highways.

Rules: 18.5.104 et seq., ARM

Contact: Department of Highways
Area Field Maintenance Bureau

2. Application Requirements

Application for an approach permit must be made by the owner or contract purchaser, and such permits must be only for the purpose of securing or changing access to property. A brief description of the proposed work must be included in the request together with a plot plan and the location. No more than two approaches will be granted to any single property tract or business establishment. Exception may be made where the frontage exceeds 500 feet or special conditions exist that may benefit the traveling public.

Rule: 18.2.104, 18.5.105, ARM

3. Procedure for Obtaining Permit

a) A request for a permit to construct or reconstruct any residential, commercial, industrial, public street or road approach should be made to the Chief of the Field Maintenance Bureau having jurisdiction over the area.

b) Upon receipt of the request, the Chief of the Field Maintenance Bureau will arrange for a meeting with the applicant in order to discuss the proposed approach.

c) Field Maintenance Bureau personnel and the Division Traffic Engineer have authority to approve curb cuts and public and private approaches.

Rule: 18.2.104, ARM

HIGHWAY RIGHT-OF-WAY: ENCROACHMENTS/EASEMENTS

1. Applicability

Permits are issued by the Department of Highways for construction or maintenance of encroachments on or under highway rights-of-way. (Encroachments include all private structures, devices and facilities placed upon, over or under the right-of-way. These include ditches, dikes, flumes, canals or bridges; and water, sewer, electric, natural gas and communications lines.) Written permission is required from the Board of County Commissioners for any excavation or construction across county highways. Permission for easements and encroachments on or across state highway rights-of-way may be obtained from the Department of Highways.

Statute: 7-14-2139, MCA

Rules: 18.7.101-108, ARM

Contact: Board of County Commissioners

Department of Highways
Right-of-Way Bureau

ROADSIDE JUNKYARDS

See: SOLID WASTE, P. 102

Contact: Department of Highways
Right-of-Way Bureau

LAKESHORES

1. Applicability

If the local governing body has adopted lakeshore protection regulations, a permit is required for any work that will alter the current or cross-sectional area of a navigable lake its shore. Such activities include construction of channels or ditches; dredging of the lake bottom to remove muck, silt or weeds; lagooning; filling; or constructing breakwaters or wharves and docks. Upon petition from the adjacent landowners, the Department of Natural Resouces and Conservation may adopt and enforce regulations. A person who performs

work in a lake without the necessary permit may be required to restore the lake to its previous condition.

Statute: 75-7-204, 205, 207, 209, MCA

Contact: Local Governing Body
Department of Natural Resources & Conservation

2. Procedure for Obtaining Permit

a) Local Regulations: Check with local governing body for specifics.

(1) The local governing body must seek the recommendations of the local planning board.

(23) The local governing body may provide a summary procedure to permit work it finds has a minimal or insignificant impact on a lakeshore.

(3) The planning board must report its recommendations to the local governing body as to whether the proposed work conforms to the criteria for issuance of a permit, and it may require the applicant to submit additional information prior to making its recommendations.

(4) A variance from local regulations may be obtained if an impact statement is prepared and a public hearing held.

b) Time requirements

Unless the applicant for a lakeshore work permit agrees to an extension, the governing body must grant or deny the permit within 90 days.

Statute: 75-7-207, 211, 212, 213 MCA

3. Fees

The fee for a work permit in a lake area is $10.

Statute: 75-7-210, MCA

4. Criteria

The permit for work in or on a lake will be issued if the proposed work will not diminish water quality or habitat for fish or wildlife, interfere with navigation or recreation, create a public nuisance or create an unsightly area. Local criteria may vary.

Statute: 75-7-208, MCA

OPEN SPACE - CONSERVATION EASEMENTS

1. Applicability

Any public body may acquire title to or interest in real property for the purpose of preserving natural, scientific, educational or aesthetic resources. An interest less than fee simple ownership is obtained by "conservation easment", whereby the landowner relinquishes to the holder of the easement the right to develop the land or alter its natural character. The terms of the easement may prohibit or limit construction, excavation, surface uses, etc.

The existence of such an easement should appear on the deed to the property.

Statute: 76-6-101 et seq., MCA

Contact: Local Governing Body
County Clerk & Recorder

NATURAL AREAS

1. Applicability

A natural area is one affected primarily by natural forces, with evidences of human activity at a minimum, and with outstanding natural features worthy of preservation. State-owned lands which are controlled or acquired by the Board of Land Commissioners may be designated as natural areas. Lands so designated will be managed by a "managing entity" and will be subject to a master plan setting forth specific land use limitations and controls.

Statute: 76-12-101 et seq., MCA

Rules: 26.5.201 et seq., ARM

Contact: Board of Land Commissioners
Department of State Lands
Land Administration Division

2. Procedures

Recommendations for designation are made to the Board by the Department or by other state or local agencies or citizens' groups. The Board will act on such recommendations, either approving or rejecting the designation. If an area is designated, a "managing entity" will be appointed to administer a master plan for the area. The managing

entity may be the Department, a local governing body or a private organization.

3. Criteria for land use decisions

Before making any land use decisions, the Department must review all proposals for potential impacts which might unalterably preclude the designation of a potential state natural area. If a preliminary review indicates that an area which would be affected by a land use decision might qualify for natural area designation, the Department may take up to one year to evaluate the proposal. If this evaluation indicates that the area qualfies as a natural area, the original land use proposal will not be approved. However, the Board will not designate any natural area if the designation would reduce the long-term compensation to the school trust fund.

Rule: 26.5.203, ARM

STATE LANDS

1. Applicability

Activities on state-owned land generally require permits, leases or easements from the Department of State Lands and approval from the Board of Land Commissioners. See: ANTIQUITY SITES, p 4; AGRICULTURE, p 30; FORESTRY, p 56; GEOTHERMAL DEVELOPMENT, p 44; HYDROELECTRIC SITES, p 45; MINING, pp 84-87; NATURAL AREAS, p 13; OIL AND GAS, p 90.

In addition, the Departments of Fish, Wildlife and Parks, Natural Resources and Conservation, and other state agencies should be contacted for information regarding rules and procedures on lands owned or administered by those agencies.

2. Easements. The Board may grant easements on state lands for schoolhouse sites or grounds, public parks, community buildings, cemeteries or other public uses upon proper application accompanied by accurate and verified plats. The Board also may grant an easement for right-of-way across any portion of state lands for any public highway or street, ditch, reservoir, railroad, private road, telegraph or telephone line, or any other public use. Application for an easement on state lands must be made to the Department of State Lands. Compensation must be the full market value of the use of the land, plus any diminution in value of adjacent state lands.

3. Exchange of Land. The Board is authorized to exchange state land for private land provided that the private land is of equal or greater

value than the state lands and as closely as possible equal in area. Prior to the land exchange, a public hearing must be held in the county containing the state land to be exchanged. Objections to the exchange may be made at the hearing.

4. Sales of Land. The Board is authorized to sell state lands, with the exceptions of timberlands and those lands containing valuable deposits of coal, oil, oil shale, phosphate, metals, sodium or other valuable minerals. No person or corporation may purchase more than 160 acres (one section) of state land susceptible of irrigation. All sales of state lands are conducted only through public auction held at the county courthouse of the county in which the lands are located.

5. Leases. State lands may be leased in compact bodies to any person over 18 years old, heads of families, and to associations, partnerships and corporations. When the Department receives an application to lease an unleased tract, it will advertise for bids and accept the highest bid, unless the Board determines that not to be in the best interest of the state. For more details on specific types of leases, see AGRICULTURE, p 30; FORESTRY, p 56; MINING, pp 84-87; GEOTHERMAL, p 44; OIL AND GAS, p 90.

Statute: Title 77, Chapters 1-6, MCA

Rules: Title 26, Chapters 2 & 3, ARM

Contact: Department of State Lands

1. Applicability

Any physical alteration of a natural perennial flowing stream, its beds or immediate banks requires approval from either the Soil and Water Conservation District Supervisors (Title 76, Chapter 15, MCA), the Grass Conservation District Supervisors (Title 76, Chapter 16, MCA) or the Board of County Commissioners. In addition, a permit is required from the Army Corps of Engineers for any dredge and fill activity or other work affecting "navigable waters" or wetlands.

Statutes: Streambed and Land Preservation Act, 75-7-101 et seq., MCA
Rivers and Harbors Act, 33 USC 401 et seq.

Rules: 33 CFR 209 and 40 Federal Register 31319

Contact: Board of County Commissioners

Conservation District Supervisors

Army Corps of Engineers
District Engineer

Department of Fish, Wildlife & Parks

2. Procedure for Obtaining Approval

a) Within 5 days of receiving a notice of a proposed project, the District Supervisors must determine whether the propsosal is for a project covered by the Act. Within the same 5 days, they must send a copy of their determination to the Department of Fish, Wildlife & parks and the applicant. If the supervisors determine that the proposal is not a project, the applicant may, upon written notice, proceed with the activity.

b) If the supervisors determine that the proposal is for a project, the Department of Fish, Wildlife and Parks, within 5 days, must notify the supervisors whether it requests an on-site inspection by a team consisting of a member of the District, a representative of the applicant and a member of the Department. The supervisors must call a team together within 20 days, and the team must make a recommendation within 50 days.

c) The supervisors must review the recommendation and make a decision on the proposed project within 60 days.

d) If a member of the team or the applicant disagrees with the supervisors' recommendation, he may ask that an arbitration panel be appointed to hear the dispute and make a final written decision. The arbitration panel must consist of three members chosen by the senior judge of the judicial district in which the dispute takes place.

Statute: 75-7-112 through 116, MCA

3. Emergencies.

No prior notice or approval is necessary for emergency actions taken to safeguard life or property. However, notice must be given to the supervisors within 15 days following the emergency action. A team will be called together as discribed above to evaluate the project.

Statute: 75-7-113, MCA

4. Criteria

The purposes of review are to preserve streams in their natural state and to keep soil erosion and sedimentation to a minimum, after giving consideration to the needs of acriculture and other beneficial uses of water.

Statute: 75-7-102, MCA

5. Public Projects

Before engaging in any project which may obstruct or alter a stream, a state or local government agency must first submit a notice to the Department of Fish, Wildlife & Parks, on forms provided by the Department, at least 60 days prior to commencement of construction. Within 30 days after receipt of project plans, the Department must notify the applicant whether the project will adversely affect fish or wildlife habitat. The Department may require modifications in the project. If agreement cannot be reached, an arbitration panel may be appointed by the district court.

Statute: 87-5-501 et seq., MCA

Contact: Department of Fish, Wildlife and Parks

GENERAL BUILDING AND CONSTRUCTION

One or all of the following general regulations may apply to all types of developments and activities. The appropriate authorities always should be contacted to determine the applicable regulations.

BUILDING CODES AND RESTRICTIONS

1. Applicability

The state-wide building code applies to all construction throughout the state with the exception of residential structures with fewer than five dwelling units, farm and ranch buildings, and private garage and storage structures used only by the owner. Such structures may be regulated only if municipalities or counties adopt local ordinances. If towns or counties adopt local building codes, enforcement is by local rather than state authorities.

2. Procedures

A permit must be obtained from appropriate authorities before construction can begin. A certificate of occupancy must certify that the building conforms to the applicable building code requirements.

Statute: 50-60-101 et seq., MCA

Rules: 2.23.101 et seq., ARM

Contact: City or Town Council
Board of County Commissioners

Department of Administration
Building Codes Division

3. Fees

Required fees for construction, plumbing, electrical systems and so forth are listed throughout the rules for building codes. Refer to the rules regarding the required fees.

Rules: 2.23.101 et seq., ARM

FIRE INSPECTION

1. Applicability

Buildings designed for assembly, business, educational, industrial, institutional or residential (other than single-family private homes) occupancy must meet fire escape, fire alarms and fire extinguisher requirements. Architectural plans for construction or alteration must be submitted to and a permit obtained from the State Fire Marshal. Enforcement responsibilities are shared by the Fire Marshal, county sheriffs and municipal fire chiefs.

Statute: 50-61-101 et seq., MCA

Contact: County Sheriff

Municipal Fire Chief

Department of Justice
State Fire Marshall

PLANNING AND ZONING

1. Master Plan

The master plan is the primary land use planning document of the city or county. After a public hearing, the planning board recommends the plan to the governing body, which either rejects it or accepts it with or without modification. All zoning ordinances and land use decisions must "be guided by and give consideration to" the master plan.

Statute: Title 76, Chapters 1 and 2, MCA

Contact: Local Governing Body
Local Planning Board

2. Zoning Regulations.

Cities, towns and counties may adopt zoning regulations and establish zoning districts for the regulation of height and size of buildings, percentage of lot occupied, size of yards, density of population, location and use of buildings and so on. Local zoning regulations, if any, should be checked before commencing any development or activity. Permits are required. No zoning rule may prevent the complete use, development or recovery of any mineral, forest or agricultural resources by the owner.

Statute: 76-2-101 et seq., MCA

Contact: Local Governing Body
Local Zoning Board

WATER

If the project requires the use of water, the development of a water supply, or discharge of wastes into state waters, the following regulations may apply. (See also, IMPROVEMENT & UTILITY DISTRICTS, p 111).

PUBLIC WATER SUPPLY

1. Applicability

A water system serving ten or more families or 25 or more persons for 60 days out of the calendar year must be approved by the Department of Health & Environmental Sciences. Plans and specifications for public water supply wells must be approved, as well as plans for construction, alteration or extensions of any water system or treatment facilities. Private water supply systems for food and lodging establishments licensed by the Department also must be approved. Operations of public water systems and treatment facilities must be licensed by the Board of Water & Waste Water Operators.

Statute: 75-6-101 et seq., MCA

Rules: 16.20.401-405, 1601, ARM

Contact: Department of Health & Environmental Sciences
Water Quality Bureau

Board of Water & Waste Water Operators

2. Application Requirements

a) Prior to commencing construction, alteration or extension of a public water supply, the applicant must submit an engineering report along with the necessary plans and specifications to the Department for review and written approval.

b) The engineering report, plans and specifications for a public water supply must be prepared and designed by a professional engineer according to specific engineering criteria.

c) The applicant must identify the legal entity responsible for the ownership, operation and maintenance of the public water supply.

d) If the applicant has not commenced construction, alteration or extension of the public water supply within 2 years after

approval, he must resubmit all requirements in a), b), and c) above.

e) The proposed public water supply must comply with the Montana Water Quality Act (75-5-101 et seq.). (See WATER POLLUTION, p. 23.).

f) Any person who wishes to drill a well in the state in order to furnish water for public consumption or use must register with the Department.

g) Within 90 days after the construction, alteration or extension of the public water supply, the project engineer must certify to the Department that the required work was completed according to plans and specifications approved by it.

Rules: 16.20.401, 405, ARM

SEWER SYSTEMS

1. Applicability

Approval from the Water Quality Bureau, Department of Health & Environmental Sciences, is required to construct, alter or extend a public sewer system serving 10 or more families or 25 or more persons for at least 60 days out of the calendar year.

Statute: 75-6-101 et seq., MCA

Rules: 16.20.401, 402, ARM

Contact: Department of Health & Environmental Sciences
Water Quality Bureau

2. Application Requirements

a) Prior to commencing construction, alteration or extension of a public sewer system, the applicant must submit an engineering report along with the necessary plans and specifications to the Department for review and written approval.

b) The engineering report, plans and specifications for a public sewer system must be prepared and designed by a professional engineer according to specific engineering criteria.

c) The applicant must identify the legal entity responsible for the ownership, operation and maintenance of the public sewer system.

d) If the applicant has not commenced construction, alteration or extension of the public sewer system within 2 years after approval, he must resubmit all requirements in a), b) and c) above.

e) The proposed public sewer system must comply with the Montana Water Quality Act (75-5-101 et seq.).

f) Within 90 days after the construction, alteration or extension of the public sewer system, the project engineer must certify to the Department that the required work was completed according to plans and specifications approved by the Department.

Rule: 16.20.401, ARM

WATER POLLUTION: DISCHARGE PERMITS

1. Applicability

A permit from the Department of Health and Environmental Sciences is required to construct, modify or operate a disposal system or to construct or use any outlet for discharge of sewage, industrial or other wastes into state waters. In addition, all structures or facilities requiring the disposal of sewage through an individual disposal system must be approved by the local board of health.

Authorization is required from the Department for short-term construction or hydraulic projects which may have short-term water quality impacts.

Plans and specifications for tailings ponds, leaching pads and holding facilities must be submitted to the Department for review and approval at least 180 days before commencement of operations.

Statute: Montana Water Quality Act, 75-5-101 et seq., MCA

Rules: 16.20.633, ARM
16.20.901 et seq., ARM

Contact: Local Board of Health

Department of Health & Environmental Sciences
Water Quailty Bureau

2. Application Requirements

The applicant for a water pollution discharge permit must file a Montana Pollutant Discharge Elimination System (MPDES) permit

application no less than 180 days prior to the operation of a point source.

Application information must include plans and specifications, site plans, descriptions of adjacent state waters, soil conditions, groundwater characteristics, process and waste flow diagrams, and volume and nature of projected discharges.

Statute: 75-5-401, MCA

Rule: 16.20.904, ARM

3. Procedure for Obtaining Permit

a) Time Requirements

The Department will not process a pollutant discharge permit until the application is complete.

b) Public Notification, Hearing, Appeal of Denial

(1) Upon receipt of the permit application, the Department must make a tentative determination with respect to issuance or denial of an MPDES permit. The Department is then required to issue a public notice to inform interested persons of the proposed discharge and of the tentative determination.

(2) At least thirty days are provided for written comments from the public regarding the application.

(3) The applicant, any affected agency, state, or country, the regional administrator of the Environmental Protection Agency, or any interested person or agency may request a public hearing on the applciation. The hearing must be held in the geographical area of the proposed discharge.

(4) If the Department deniesies the discharge permit, the applicant may appeal the decision to the Board of Health & Environmental Sciences. The hearing must be held within 30 days of the receipt of the written request.

c) All permits are issued for a fixed term, not to exceed 5 years.

Statute: 75-5-403, MCA

Rules: 16.20.904-907, ARM

4. Criteria

All discharges of pollutants into state waters authorized by an MPDES permit must be consistent with the conditions of the permit. The discharge of pollutants into state waters in excess of the MPDES permit's restrictions constitutes a violation of the permit. State waters must be free of discharges that settle to form sludge deposits; create floating debris; produce odors; create toxic concentrations harmful to human, animal, plant and aquatic life; or create conditions capable of producing undesirable aquatic life.

Rules: 16.20.633, 907, ARM

WATER POLLUTION: FEDERAL FACILITIES

1. Applicability

Federal permitting authority is involved for federal facilities, for projects requiring federal permits or licenses under other regulatory authority and for activities on Indian reservations. Minimum discharge limits are established by the Environmental Protection Agency, and these apply to all discharges except where greater treatment is needed to meet water quality stream standards.

Statute: Water Pollution Control Act, 33 U.S.C. 1251 et seq.

Contact: Environmental Protection Agency
Montana Office, Helena

SURFACE WATER APPROPRIATIONS - DIVERSIONS

1. Applicability

State waters may be appropriated only for "beneficial uses" such as agriculture, domestic use, fish & wildlife, mining, industrial activity, municipal supply, power, and recreation. A permit is required from the Department of Natural Resources & Conservation to appropriate surface water for beneficial uses. A person who intends to appropriate water by means of a reservoir also must have a permit. Application forms are available from the Department or the County Clerk & Recorder. Thirty days' notice must be given to the owner of a railroad right-of-way before conducting water by ditch or flume over the right-of-way. Diversion of water outside the state requires an act of the Legislature. (The Department may consent to diversions of water from the Yellowstone River Basin in accordance with Article X of the

Yellowstone River Compact among the states of Montana, North Dakota and Wyoming.) Transfers of water rights and reservations of water for future uses must be approved by the Department. A permit is not required for a pit to be used for watering livestock if the pit is less than 15 acre-feet, the impoundment is on a parcel at least 40 acres in size, and the appropriation is from a source other than a perennial flowing stream.

Statute: 85-2-101 through 418, MCA

Rules: 36.12.101-105, ARM

Contact: County Clerk & Recorder

Department of Natural Resources & Conservation
Water Rights Bureau

2. Application Requirements

Application for a permit to appropriate or divert water must be made on forms supplied by the Department. A defective application does not lose its filing priority if it is corrected and refiled within 30 days or such further time as the Department may allow, up to 18 months. An application not corrected within 18 months is terminated.

Statute: 85-2-301 et seq., MCA

Rule: 36.12.102, ARM

3. Procedure for Obtaining Permit

a) Time Requirements, Hearing

(1) The Department must prepare a notice on the application for a permit and publish it in an area newspaper once per week for 3 consecutive weeks.

(2) Interested persons may file written objections to the permit application within a time established by the Department, not less than 30 nor more than 60 days after the last date of publication.

(3) If the Department determines that objections to an application are valid, it must hold a public hearing within 60 days from the date set for filing objections.

(4) The Department must issue a decision on the permit within 120 days after the final date of publication of the notice if no objections have been received, and within 180 days if a hearing is held or objections have been received. If no objection to the application is filed but the Department

feels that the application should be approved in a modified form or denied, it must serve a statement of opinion upon the applicant, along with notice that the applicant may obtain a hearing by filing a request within 30 days.

(5) The Department may issue a permit for less than the amount of water requested, but in no case may it issue one for more water. It also may limit the time for commencement of the appropriation work, completion of construction, and actual application of the water to the proposed beneficial use.

(6) Water rights are provisional until all rights in the source of supply have been adjudicated in state water court. See the Department or local clerk of court for adjudication procedures.

b) Appeal of Denial

The applicant may appeal the denial of a permit for water appropriation or diversion within 30 days after notice of the denial.

Statute: 85-2-307 through 312, MCA

4. Fees

A fee schedule, based on the volume of water appropriated, is establihsed by rule.

Statute: 85-2-113, MCA

Rule: 36.12.103, ARM

5. Criteria

The Department bases its decision for issuance of a permit on the following criteria: existence of unappropriated waters in the source of supply; the rights of a previous appropriators will not be adversely affected; the proposed means of diversion or construction are adequate; the proposed use of water is a beneficial one, and it will not interfere unreasonably with other planned water uses or developments in the area.

The Department issues permits subject to terms and conditions it consideres necessary to protect the rights of other appropriators. It may issue temporary or seasonal permits.

6. Reservations

The state or any political subdivision or the federal government may apply to the Board of Natural Resources and Conservation to reserve waters for existing or future benefical uses of water. Applications are processed and investigated by the Department. The Board must make a finding regarding the purpose and need for the reservation, and that it is in the public interst.

WATER WELLS/GROUNDWATER APPROPRIATIONS

1. Applicability

Outside of a Controlled Groundwater Area, a permit is not required to appropriate water by means of a well or developed spring with a maximum appropriation of less than 100 gallons per minute. However, notice of completion of the well must be filed with the Department of Natural Resources & Conservation within 60 days. Defective notices must be resubmitted within a time specified by the Department in order to retain priority. For larger wells, or inside a Controlled Groundwater Area, a permit for appropriation of groundwater must be obtained from the Department. See SURFACE WATER APPROPRIATIONS for procedures.

All wells must be drilled by a contractor licensed by the Board of Water Well Contractors or by a person who has obtained a permit from the Board to drill a well on his/her own property for his/her own private use. See PUBLIC WATER SUPPLY.

Statutes: 85-2-306, 501 et seq., and 37-43-101 et seq., MCA

Contact: County Clerk & Recorder

Department of Natural Resouces & Conservation
Water Rights Bureau

Board of Water Well Contractors

2. Application Requirements

a) Within 60 days after any well is completed, the driller must file with the Department a log report on a form provided by the Department.

b) Any person who wishes to engage in the business of drilling or constructing underground water wells must file an application for a contractor's license with the Department of Commerce. The license will be issued if the Board of Water Well Contractors determines that the applicant is qualified to conduct water well construction operations.

Statute: 85-2-516 and 37-43-303, MCA

3. Fees

a) The application fee for a water well contractor's license is $100.

b) The fee for renewal of such license, which is valid from July 1 to June 30, is $25.

Statute: 37-43-303,307, MCA

DAMS AND RESERVOIRS

1. Applicability

Construction on navigable waters within the United States requires licensing by the Federal Energy Regulatory Commission and the Army Corps of Engineers. Upon complaint, the Department of Natural Resources and Conservation must inspect and approve dams and reservoirs on state waters.

Statutes: Federal Power Act, 16 USC 791a et seq.
River and Harbors Act, 33 USC 401 et seq.
85-15-101 et seq., MCA

Contact: Department of Natural Resources & Conservation
Water Resources Division
Engineering Bureau

Army Corps of Engineers
District Engineer
Federal Regulatory Commission

SPECIFIC CATEGORIES

In addition to the statutes and rules listed above that may apply to all types of developments and activities, if the activity falls into one or more of the following categories, additional rules may apply.

AGRICULTURE

ANIMAL CONFINEMENT FACILITIES

1. Applicability

Permits are required from the Department of Health & Environmental Sciences for operation of confined animal feeding facilities that may cause air or water pollution. See WATER POLLUTION: DISCHARGE PERMITS, p 23.

Rule: 16.20.901 et seq., 16.20.1603, ARM

Contact: Department of Health & Environmental Sciences
Water Quality Bureau

CROPLAND LEASES

1. Applicability

The Board of Land Commissioners may lease state lands for general agricultural use. Cropland leases are based on a "crop share rental value" of not less than one-fourth of the annual crop, or the usual "landlord's share", whichever is greater.

Statute: 77-6-501, et seq., MCA

Contact: Department of State Lands
Centralized Services Division

2. Procedures

a) Leases go to the highest bidder, unless the Board determines that not to be in the state's best interest.

b) Present leaseholders have a preference right over others seeking to lease the same land. Such present holders must meet the highest bid made by any applicant unless the Board determines such bid to be excessive. Present holders may exercise their preference only if they have actually used the land themselves.

c) Lease terms are for 5 or 10 years.

FERTILIZER REGISTRATION

1. Applicability

Fertilizers, except unmanipulated animal and vegetable manures, must be registered with the Department of Agriculture before distribution in Montana. An annual license, which expires on December 31 of each year, is required from the Department to sell or distribute fertilizer.

Statute: 80-10-201, 202, MCA

Rules: 4.12.601 et seq., ARM

Contact: Department of Agriculture
Plant Industry Division

2. Application Requirements

The applicant for a fertilizer distribution license must complete forms provided by the Department.

The application must include the brand, grade and guaranteed analysis of the fertilizer, the source of each plant food element, name and address of applicant, a copy or facsimile of the label and promotional material, and replicated data verifying claims for effectiveness.

Statute: 80-1-201, 202, MCA

Rules: 4.12.604, ARM

3. Fees

a) The fee for fertilizer registration is $10 per grade for each fertilizer and for each soil amendment, with the exception of specialty fertilizers in packages of 10 pounds or less, which must be registered at a fee of $25 each.

b) The fee for a fertilizer registeration license is $50.

Statute: 80-10-201, 202, MCA

GRAZING

1. Grazing Districts

a) Preferences and permits for grazing within a Grass Conservation and Grazing District must be obtained from the District Supervisors

Statutes: 76-13-310, MCA

Contact: Grazing District Supervisors

b) Any person who wishes to obtain grazing preferences (i.e., the right to obtain a grazing permit from the district) must make an application within 1 year after organization of the district.

c) Transfer of preferences may not be allowed without the written consent of the owner of the property from which the transfer is to be made. A transfer is not effective until approved by the Department of Natural Resources & Conservation.

d) Prior to the transfer, a public hearing must be held before the Board of Directors of the District.

Statute: 76-14-401 et seq., MCA

2. State Leases

a) The Department of State Lands issues leases, through competitive bidding, for grazing on state lands.

Statutes: 77-6-101 et seq., 77-6-201 et seq., MCA

Rules: 26.3.101 et seq., ARM

Contact: Department of State Lands
Centralized Services Division

b) Leasing Procedures

(1) When the Department of State Lands receives an application to lease state lands for grazing purposes, it must advertise for bids on the tract. The tract must be leased to the highest bidder unless the Board of Land Commissioners determines that the bid is not in the state's best interest. All bidding takes place at the county courthouse of the involved county.

(2) A present lease holder has a preferential right to meet the highest bid unless the Board determines such bid to be excessive. Thier preferential right may only be exercised if the present holder actually used the land himself.

(3) A person bidding for the lease of state lands must deposit with the Department of State Lands a certified check, cashier's check or money order in an amount equal to 20 percent of the annual rental bid for grazing land and an amount equal to $1 per acre for each acre of agricultural land.

(4) The rental rate for leasing state grazing lands is based on the appraised animal-unit-month carrying capacity of the land.

3. Federal Leases

The Bureau of Land Management and the Forest Service issue grazing leases for federal land.

Statutes: Taylor Grazing Act, 43 USC 315 et seq., 43 USC 1171

Rules: 43 C.F.R. 4100

Contact: Bureau of Land Management

U.S. Forest Service
Forest Supervisor

PESTICIDES

1. Applicability

All pesticides distributed in Montana must be registered annually with the Department of Agriculture. The Departments of Health & Environmental Sciences and Fish, Wildlife & Parks also review registration applications. Commercial applicators must be licensed

annually by the Department of Agriculture (expiration is December 31 following date of issuance), and farm applicators must obtain special use permits for restricted pesticides. Pesticides dealers also must be licensed annually by the Department (on or before May 1 of the calendar year). Aerial applicators must be licensed by the Department of Commerce and certify that they have met all Federal Aviation Administration requirements for aerial pesticide applicators.

Statute: Montana Pesticides Act, 80-8-101 et seq., MCA

Rules: Title 4, Chapter 10, ARM

Contact: Department of Agriculture
Environmental Management Division

Department of Commerce
Aeronautics Division

2. Application Requirements

a) The applicant for pesticide registration must file a statement with the Department of Agriculture including name and address, a complete copy of the pesticide label, trade and chemical name of the pesticide and any required tests. The Department of Health & Environmental Sciences and Fish, Wildlife & Parks must approve or disapprove the application within 10 days after receipt of the application.

b) The applciant for a pesticide applicator's license must file annually with the Department of Agriculture on or before May 1 of each year. The Department's form must be completed. A pesticide applicator's and operator's examination also is required of each new applicant for a license.

c) The applicant for a dealer's license must pass an examination administered by the Department.

d) Farm applicators qualify for a permit by either passing a graded written examination or attending a training course approved by the Department and taking an ungraded written examination.

Statute: 80-8-201, 203, 204, 206, 208, 209, MCA

Rules: 4.10.201, 203-205, ARM

3. Procedure for Obtaining Registration

a) The Departments of Health & Environmental Sciences, Agriculture, and Fish, Wildlife & Parks must review all applications for registration of an experimental use permit or a registration for special local needs. The Departments utilize the same

requirements and standards for reviewing registrations as established by the Federal Insecticide, Fungicide and Rodenticide Act.

b) The Departments of Health & Environmental Sciences and Fish, Wildlife & Parks must approve or disapprove the application within 10 days after receipt.

c) If all three departments are in agreement with the proposed registration, the Department of Agriculture must issue the registration.

Statute: 80-8-201(8), MCA

4. Fees

a) The fee for each registered pesticide is $15.

b) The fee for a pesticides applicator's license is $15.

c) The application for a dealer's license must be accompanied by a fee of $15. Dealers applying for renewal of a license must do so on or before May 1 of the calendar year. Any dealer applying for renewal of license after May 1 is assessed a $15 late license fee.

Statute: 80-8-201, 207, MCA

5. Criteria

a) If it does not appear to the Department of Agriculture that the pesticide warrants proposed claims for it or if the article and its labeling do not comply with the Montana Pesticides Act, the Department must notify the applicant to allow him/her an opportunity to make the necessary corrections.

b) If the applicant does not make the corrections, the Department may refuse to register the pesticide.

c) The Department's decision may be appealed.

Statute: 80-8-201(6), MCA

1. Applicability

If agricultural land is located within a Soil & Water Conservation District that has adopted land use regulations, such regulations may require that prior notification of major agricultural land use practices be given to Conservation District Supervisors. The Supervisors may compel compliance with regulations and practices designed to prevent soil erosion and preserve water resources.

Statute: 76-15-701 et seq., MCA

Contact: Soil & Water Conservation District Supervisors

CARRIERS - TRANSPORTATION

A carrier includes everyone who offers to carry or transport persons, property or messages, with the exception of telegraphic or telephonic messages.

Statute: 69-11-101, MCA

AIR CARRIERS

1. Applicability

Air carriers must obtain a certificate of public convenience and necessity from the Board of Aeronautics. Aircraft kept in the state must be registered with the Department of Commerce. Registration must be renewed annually on or before June 1 each year.

Statute: 67-3-201, 422, MCA

2. Fees

a) The aircraft registration fee is $10.

b) The application fee for a certificate of public convenience and necessity is $150.

Statute: 67-3-2-1(2), 422(2), MCA

3. Criteria

In awarding certificates of public convenience and necessity, the Board must consider the business experience of the particular air carrier in the field of air operations, its financial stability, insurance coverage, type of aircraft employed, proposed routes and minimum schedules, whether the carrier could economically give adequate service to the communities involved, the need for service and other factors that may affect the public interest.

Statute: 67-3-422(3), MCA

AIRPORT LICENSING

1. Applicability

Airports and other air navigation facilities must be licensed annually by the Department of Commerce. The Department also issues certificates of site approval.

Statute: 67-3-301, MCA

Contact: Department of Commerce
Aeronautics Division

2. Hearing

The applicant or an affected municipality may demand a hearing on the proposed license, within 15 days after issuance of the order to grant or deny the license. The Department may also choose to hold a hearing before issuing an order. Notice of the hearing must be published at least twice, the first being at least 15 days prior to the hearing, in a local newspaper.

Statute: 67-3-302, MCA

3. Criteria

In determining whether to issue a certificate of approval or license to an airport, the Department must take into consideration its proposed location, size and layout; the relationship of the proposed airport or restricted landing area to any comprehensive plans for statewide or nationwide development; whether there are safe areas available for expansion purposes; whether the adjacent area is free from obstructions; the nature of the terrain; the nature of the uses to which the proposed airport will be put and the possibilities for future development.

Statute: 67-3-303, MCA

FERRIES

1. Applicability

Ferries between two counties must be approved by the Board of County Commissioners.

Statute: 7-14-2802, MCA

Contact: Board of County Commissioners

2. Application Requirements

Application to operate a ferry between two counties must be made to the Board of County Commissioners of the county situated on the left bank of the affected river, creek or slough. The application must contain a description of the proposed landings, names of the owners of the landings, and notice that the application has been served at least 10 days prior to the date of application on those landowners not participating in the application. Notice of the proposed ferry must be published by the applicant in local newspapers and posted in three places for 4 consecutive weeks. A hearing is required after notice. The owner of the land on either bank of the waters to be crossed is entitled to preference in procuring authority to construct a ferry, with the owner on the left bank descending having preference over the owner on the right bank.

Statute: 7-14-2821 through 2824, MCA

MOTOR CARRIERS

1. Applicability

Commercial carriers are divided into four categories and must receive a certificate of public convenience and necessity from the Public Service Commission. A certificate from the Commission is also required for the transportation of livestock by motor vehicles on public highways.

2. Classes of carriers

The four classes of commercial carriers are as follows:

a) Class A includes all motor carriers operating between fixed locations or over a regular route and under regular rates or charges;

b) Class B includes all motor carriers operating under station-to-station rates and not between fixed locations;

c) Class C includes all motor vehicles for distributing, delivering or collecting wares, merchandise or commodities, or transporting persons, where the remuneration is fixed and the transportation service furnished under a contract, charter, agreement or undertaking; and

d) Class D includes all motor carriers used to transport, pick up or dispose ashes, trash, waste refuse, rubbish, garbage or organic/inorganic matter.

Statute: 69-12-301, 405, MCA

Rules: 38.3.12 et seq., ARM

Contact: Department of Public Service Regulation
Transportation Division

3. Procedure for Obtaining License

a) A hearing is required, if requested, on the application for a motor carrier's license within 60 days after receipt of the request. Notice of the hearing must be served on other parties at least 10 days prior to the hearing.

b) The Commission must decide on the license within 180 days of the filing of the application. The applicant may request an extension.

Statute: 69-12-322, 323, MCA

4. Criteria

The Commission must issue the license if it finds from the evidence that public convenience and necessity require the authorization of the service.

Statute: 69-12-323, MCA

RAIL CARRIERS

1. Applicability

The Public Service Commission issues certificates of public convenience and necessity to intrastate rail carriers and regulates rates and service. Any railroad coproration chartered under the laws of the United State may extend, construct, maintain and operate its railroad into and through Montana to any place within the state and may build branches from any point on its rail lines.

Statute: 69-14-101 et seq., MCA

Rules: 38.4.1-6, ARM

Contact: Department of Public Service Regulation
Transportation Division

COMMERCIAL - INDUSTRIAL - ENERGY

AIR POLLUTION PERMITS: STATE

1. Applicability

A permit from the Department of Health & Environmental Sciences is required for the construction, installation and operation of equipment or facilities that may directly or indirectly cause or contribute to air pollution. Exceptions include residential heating units, food service establishments, ventilating systems, motor vehicles, trains, aircraft, road construction (except stationary sources) and other sources which emit less than specified amounts. The city or county may administer its own air pollution permit program in addition to the Department's permit program.

Statute: Montana Clean Air Act, 75-2-211, 212, 301, MCA

Rules: 16.8.1101 et seq., ARM

Contact: Local Board of Health

Department of Health & Environmental Sciences
Air Quality Bureau

2. Application Requirements

An applicant for an air pollution permit must file with the Department the appropriate permit application on forms supplied by the Department not later than 180 days before construction nor later than 120 days before installation of the facility.

Statute: 75-2-211, MCA

Rule: 16.8.1105, ARM

3. Procedure for Obtaining Permit

a) The application for an air pollution permit is not considered to be filed until all filing requirements are completed. However, if the Department fails to notify the applicant within 30 days that an application is incomplete, the application is then considered complete.

b) The applicant must notify the public by means of legal publication in a newspaper of general circulation in the area of the proposed facility. The notice must be made not sooner than 10 days prior to submittal of the application nor later than 10 days after submittal. The Department will supply the form of the notice.

c) Within 40 days after receipt of the complete and filed application for a permit, the Department must make a preliminary determination whether the permit should be issued, issued with conditions or denied. Publication of the proposed decision is required in a local newspaper in the affected area.

d) Notwithstanding the opportunity for public comment, a final decision must be made within 60 days after a completed and filed application is submitted to the Department.

e) If an application for a permit requires the compilation of an environmental impact statement, the public review procedure for EISs will apply, and the Department has 180 days from receipt of the completed application in which to make its final decision. (See MONTANA ENVIRONMENTAL POLICY ACT/ENVIRONMENTAL IMPACT STATEMENTS, p. 113)

f) If the Department denies the application for an air pollution permit, the applicant may appeal the decision to the Board of Health & Environmental Sciences.

4. Prevention of Significant Deterioration (PSD)

a) When a major new source of air pollution is proposed in an area whose ambient air quality is better than the applicable standards, a more stringent review procedure may apply. Such review may

include one year of pre-application baseline data, control technology review, air quality impact modeling, etc.

b) The Department must (1) advertise in a newspaper of general circulation in the air quality control region affected by the proposed source that an application has been received, the Department's preliminary determination, the degree of increment consumption expected from the source, how written comments may be submitted and how the Department's final determination may be appealed to the Board; and (2) forward copies of the notice of public comment to the applicant, Region VIII Administrator of the Environmental Protection Agency (EPA) and to area officials and agencies affected by the proposed construction.

Statute: 75-2-211, 401, MCA

Rules: 16.8.901 et seq., ARM

5. Fees

The Department may assess a fee from the applicant to implement and enforce the terms and conditions of the air pollution permit.

Statute: 75-2-211(2)(b), MCA

6. Variances

A person may apply to the Board of Health & Environmental Sciences for an exemption from applicable rules. Such a variance may be issued if the Board finds there will be no adverse impact on public health or safety, and that compliance with the rules would be an undue hardship on the applicant. A variance is good for one year, and may be renewed for like periods. An applicant for a variance must submit a sum of 2% of the cost of equipment needed to bring the facility into compliance with the rule from which the exemption is sought, but not less than $500 nor more than $80,000.

Statute: 75-2-212, MCA

7. Criteria

An air quality permit to construct or operate a new or altered air pollution source cannot be issued unless the source is able to comply with the ambient air quality standards, emission limitations and other rules adopted under the Montana Clean Air Act, and the applicable regulations and requirements of the Federal Clean Air Act.

Rule: 16.8.1109, ARM

AIR POLLUTION PERMITS: FEDERAL

Federal permitting authority is concerned with hazardous pollutants, certain point source categories and federal nondegradion rules (PSD). Frequently, 1 year of baseline data is required for PSD review. The Department of Health & Environmental Sciences will provide information regarding federal permits.

Contact: Department of Health & Environmental Sciences
Air Quality Bureau

Environmental Protection Agency
Montana Office, Helena

GEOTHERMAL DEVELOPMENT

1. General

Development of geothermal resources will generally require the appropriation of water rights (see GROUNDWATER APPROPRIATIONS, p 28) and may require a certificate of public need and environmental compatibility (see MAJOR FACILTY SITING ACT, p 48.) For general information, contact the Department of Natural Resources and Conservation, Energy Division, Renewable Energy Bureau.

2. Geothermal Leases on State Lands

a. Applicability

The Board of Land Commissioners may lease state-owned lands, including the beds of navigable streams and the beds of navigable bodies of water, for the purposes of prospecting, exploration, well construction or production of geothermal resources.

Statute: 77-4-101 et seq., MCA

Rule: 26.3.401 et seq., ARM

Contact: Department of State Lands
Centralized Services Division

b. Procedure for Obtaining Lease

(1) A person wishing to lease state lands for geothermal operations must submit an application form supplied by the Department of State Lands. Water rights may also be

required. See SURFACE WATER APPROPRIATIONS, p 25; GROUND WATER APPROPRIATIONS, p 28.)

(2) Sale of geothermal leases occurs after receipt of a sufficient number of applications to warrant a sale.

(3) Notice of sale must be published in a geothermal trade journal or in two newspapers of general circulation in Lewis and Clark County. Notice must be published for 4 weeks preceeding the sale date. Sale may be by competitive bid.

(4) A bond may be required to protect the state's interest in the resource.

(5) The term of a geothermal lease is 10 years. Compensation must be paid to surface lesses, if any.

Rule: 26.3.405. ARM

3. Fee/Rental

The required fee for a geothermal lease application is $10. Rental and royalty charges are determined by the Board.

Rules: 26.3.405, 408, ARM

HYDROELECTRIC SITES ON STATE LANDS AND NAVIGABLE WATERS

1. Applicability

The board of Land Commissioners may grant leases for construction and operation of hydroelectric power sites on state lands. Hydroelectric plants on navigable waters of the United States must be licensed by the Federal Energy Regulatory Commission. Preference is given to municipalities or other government entities in leasing sites.

Statutes: 77-4-201 through 211, MCA
Federal Power Act, 16 USC 791a et seq.

Contact: Department of State Lands
Centralized Services Division

Federal Energy Regulatory Commission

2. Application Requirements/State Lands

The Board of Land Commissioners may establish any reasonable restrictions and regulations in the lease or license to protect the state and its people. A preliminary examination of the proposed site's value for development is required. If the investigation requires further proceedings, the Board must publish a notice regarding the proposed lease or license for 6 weeks in two state newspapers, one of which must be from the affected area. The Board, at its meeting on the proposed site, may consider the original application along with any other filed applications. The Board has the power to reject any or all bids. Acceptance depends on which offer is considered to be most advantageous to the state. Bid preferences are given to municipalities. The term of the lease cannot exceed 50 years.

Statute: 77-4-203, 204, 205, 206, 207, 209, MCA

3. Hydroelectric generation at state water projects

a) The Board of Natural Resources and Conservation may lease sites at state water projects which it determines to be feasible for energy generation. When the Board advertises for lease applications, public utilities and electric cooperatives have 180 days to submit applications. The Board will hold a hearing to examine all applications, and must decide whether to accept or reject applications within 180 days after the close of the application period.

b) The lessee must provide an adequate royalty payment, be capable of carrying out the project, and provide efficient and reliable service.

c) Any necessary federal licenses or permits must be held by the Department of Natural Resources.

d) The duration of the lease may not exceed the term of such federal permits, in no case to exceed 55 years.

Statute: Title 85, Chapter 1, MCA

Contact: Department of Natural Resources and Conservation

Indoor Emissions - Occupational Noise - Radiation

1. Applicability

A permit is required from the Department of Health & Environmental Sciences for the operation of machinery that may emit pollutants into

an enclosed work area. The Department also regulates occupational noise levels. Persons who handle radioactive materials must be licensed by the Department.

Statutes: 50-70-112 and 75-3-202, MCA

Rules: 16.40.301-324, ARM: Radiation
16.42.101, ARM: Occupational Noise
16.42.102, ARM: Occupational Air Contamination

Contact: Department of Health & Environmental Sciences
Occupational Health Bureau

2. Application Requirements for Licenses - Radioactive Materials

The applicant for a license to handle radioactive waste must complete a form prescribed by the Department. The decision to grant the license depends upon the applicant's training and experience, the applicant's proposed equipment, facilities and procedures, and avoidance of potential threat to the public health and safety.

Rules: 16.40.308 et seq., ARM

1. Applicability

Certificates of Public Need and Environmental Compatibility may be required from the Board of Natural Resources & Conservation (BNRC) for major facilities that generate or transmit electricity, produce natural gas or liquid hydrocarbons or transmit them by pipeline, enrich uranium minerals, utilize or convert coal, or utilize geothermal resources. Associated facilities such as transportation links, aqueducts, dams, transmission substations and other facilities associated with the production or delivery of energy are included. Crude Oil and natural gas refineries and facilities for producing, gathering, transporting and distributing crude oil and natural gas; coal & uranium mines; and federal facilities are excluded. Certification is also required from the Department of Health & Environmental Sciences (DHES) to ensure that the facility will not violate air and water quality standards or other laws administered by the DHES.

Statute: Major Facility Siting Act, 75-20-101 et seq., MCA

Contact: Department of Natural Resources & Conservation
Facility Siting Division

Department of Health & Environmental Sciences
Air Quality Bureau
Water Quality Bureau

2. Application Requirements

An applicant for a certificate under the Major Faicility Siting Act must file a joint application with DNRC and DHES. Statements concerning the facility's need and location, alternate sites, baseline data and so forth, as well as proof of service of the application on the affected local, state and federal agencies, must be included in the filed application. (State agencies include the Environmental Quality Council and the Departments of Health & Environmental Sciences; Highways; Commerce; Fish, Wildlife & Parks; State Lands; and Public Service Regulation.) The applicant must submit an original and 19 copies of the application to DNRC.

Statute: 75-20-211, MCA

Rules: 36.7.201-202, ARM.

3. Procedure for Obtaining Certificate

a) Time Requirements

(1) Each person contemplating construction of a major facility within the next ten years must submit an annual long-range plan to DNRC.

(2) A potential applicant for a certificate may file a notice of intent to file an application at least 12 months prior to the actual filing of an application. The notice of intent must specify the type and size of the facility, its preferred location, a description of reasonable alternative locations and such information as the Board or DNRC require. An applicant complying with the notice of intent is entitled to a 5 percent reduction of the filing fee required under 75-20-215, MCA.

(3) DNRC and DHES must notify the applicant within 90 days that the application is either complete or incomplete. If the application is incomplete, the applicant may correct it for resubmission. Both departments then have 30 days to advise the applicant that the application is complete and accepted.

(4) DHES, within 1 year of the date of acceptance of a complete application, and, if a hearing is required, the board or Department of Health within an additional 6 months, must issue a decision on certificates, permits, etc., required under the laws administered by the Board of Health and DHES. DHES and the Board determine compliance with all standards, permit requirements and implementation plans under their jurisdicition. Those determinations are conclusive with respect to such requirements.

(5) Within 22 months following acceptance of an application, DNRC must report its findings and recommendations to the Board of Natural Resources & Conservation.

(6) Reports from state agencies listed in Application Requirements (above) also must report to DNRC on the impact of the proposed facility.

(7) Hearings by the Board of Natural Resources & Conservation must take place within 120 days of receipt of DNRC's findings, after notification is published in local newspapers. The Board must appoint a hearings officer, if any, within 20 days after DNRC's report has been filed. At the request of the applicant, the Air and Water Quality Bureaus of DHES must hold any required permit hearings in conjunction with the Board's certification hearing. If the Board of Health and BNRC hold separate hearings on the same certificate, the Boards must mutually agree on the appointment of the hearing examiner to preside at both

hearings. A pre-hearing conference, which must be held following notice within 60 days after DNRC's report has been filed with the Board, is to be organized and supervised by the hearing examiner, who must require the parties to submit, in writing, all direct testimony, studies, investigations, reports or other exhibits for consideration by the Board.

(8) The hearing examiner must file a report and recommendations within 60 days after conclusion of the hearing, or in the case of a joint hearing, within 90 days.

(9) The Board of Natural Resources must issue its decision to grant or deny the application within 60 days after submission of the recommended decision by the hearing examiner.

(10) The Board must waive the requirements for alternative site studies, advance notice, and finding of minimum adverse environmental impact when a facility is proposed for construction in a county that has experienced severe unemployment problems because of plant closure.

b) Appeal of Denial

The decisions by the Board of Natural Resources and the Board or Department of Health can be appealed to State District Court.

Statute: 75-20-216 through 220, 406, MCA

4. Fees

The applicant for a certificate under the Major Facility Siting Act is required to deposit a filing fee based on the estimated cost of the project in an earmarked revenue fund for use by DNRC to administer the Act. A fee schedule is listed in the statute.

Statute: 75-20-215, MCA

Rule: 36.7.206, ARM

5. Criteria

The Board of Natural Resources & Conservation must issue an opinion and render a decision, either granting or denying the application as filed or granting it with conditions or modifications. This decision is based upon a number of factors, including the need for the facility; nature of probable environmental impact; that the facility represents the minimum adverse environmental impact; that the location of the proposed facility conforms to applicable state and local laws; that the facility will serve the public interest, convenience and necessity; that DHES or the Board of Health have issued all necessary decisions, opinions, orders, certifications and permits; and that the use of

public lands for location of the facility was evaluated and public lands were selected whenever their use is as economically practicable as the use of private lands and compatible with the environmental criteria listed in 75-20-503.

6. Special Provisions - Nuclear Facilities

The Board may not issue a certificate to construct a nuclear facility in Montana unless it meets the stringent criteria specified in 75-20-1203, MCA. All nuclear facilities are subject to a public referendum by the voters.

WATER POLLUTION DISCHARGE PERMITS

Industrial and commercial operations often require water pollution permits from the Water Quality Bureau of the Department of Health & Environmental Sciences.

SEE: WATER POLLUTION, p. 23

FOOD PROCESSING AND SERVICE

DAIRIES

1. Applicability & Procedures

Licenses for operation of dairies must be obtained from the Department of Livestock. All licenses must be renewed annually by January 31 following date of expiration (December 31). Prior to construction, remodeling or relocation of a dairy, detailed plans must be submitted to the Department for review and approval. The Department of Health & Environmental Sciences must approve the means for disposal of wastewater, sewage and air pollutants. Local health agencies may investigate or sample the dairies in their area.

Statute: 81-22-201, 207, 305, 403, MCA

Contact: Department of Livestock
Milk and Egg Bureau

2. Fees

The license fee for operation of a dairy is $50.

Statute: 81-22-208(1a), MCA

FOOD SERVICE ESTABLISHMENTS

1. Applicability

Food manufacturing establishments, meat markets, food service establishments, frozen food plants and commercial food processors must receive an annual license (expiration is December 31) from the Department of Health & Environmental Sciences. The local Board of Health must validate the license.

Statute: 50-50-201, 207, MCA

Rules: 16.10.201 et seq., ARM

Contact: Department of Health & Environmental Sciences
Food & Consumer Safety Bureau

2. Application Requirements

The applicant for a food service license must submit an application on forms supplied by the Department. Prior to the issuance of a license, an inspection of the establishment by state or local health officials is required. All plans for construction, conversion or remodeling must be submitted to the Department for approval prior to the activity.

Statute: 50-50-203, MCA

Rules: 16.20.238, 241, ARM

3. Appeal of Denial

a) The license issued by the Department is not valid until validated by the local health officer. If the local health officer refuses to validate within 15 days after issuance by DHES, the license is denied.

b) The applicant for a license may appeal the local decision to the local Board of Health within 30 days.

Statute: 50-50-214, 215, MCA

4. Fees

The fee for a food service establishment license is $20.

Statute: 50-50-205, MCA

LIQUOR LICENSES - RESORT LICENSES

1. Applicability

In addition to all Health Department regulations (see FOOD SERVICE ESTABLISHMENTS, PUBLIC WATER SUPPLY; LODGING) a license to sell liquor or beer at retail must be obtained from the Department of Revenue. The city or county also may require a license. Special designation as a resort area may be obtained from the Department of Revenue in order to qualify for multiple licenses in a small area.

Statute: 16-4-101 et seq.,
16-4-201 et seq., MCA

Rules: 42.12.101 et seq., ARM

Contact: Local Governing Body

Department of Revenue
Liquor Division

2. Application Requirements

All applications for a license to sell liquor or beer at retail must be made to the Department on forms supplied by the Department.

Rule: 42.12.101, ARM

3. Procedure for Obtaining a License

a) After receipt of an application for a liquor or beer license, the Department must publish promptly in a local newspaper a notice of the application. Those who wish to protest the issuance of the license may do so within 10 days after the final notice.

b) After receipt of application, the Department must commence a thorough investigation of the applicant's qualifications and of the premises' suitability for business.

c) The application is approved if neither the applicant nor any member of his immediate family has an ownership interest in any other beverage establishment, is neither financed by nor affiliated with a manufacturer, bottler or distributor of beer, wine or liquor; the applicant is a state resident and qualified to vote in a state election; the applicant has an honorable record and is not under 19 years of age.

d) The application is denied for lack of proper policing, or because of zoning restrictions or adverse effects on residents in the area.

4) Resort Areas

To qualify as a resort, the business must have a current actual valuation of resort or recreational facilities, including land and improvements of not less than $500,000, and be under the sole ownership or control of one person or entity at the time of filing of the resort area plat. Upon filing, the Department must schedule a public hearing to be held in Helena, to determine whether the facility proposed by the resort developer or landowner qualifies as a resort area. At least 30 days prior to the hearing, the Department must publish a notice concerning the resort in a newspaper published in the county or counties in which the resort is located, once a week for 4 consecutive weeks. Persons may present statements of support or opposition at the hearing. Within 30 days after the hearing, the Department must accept or reject the plat for a resort. When the Department has accepted a plat and a given resort area has been determined, applications may then be filed with the Department for the issuance of resort retail liquor licenses within the resort area. A resort retail liquor license is not subject to quota limitations.

Statute: 16-4-202,203,207,401,402,405, MCA

Rule: 42.12.121-129, ARM

5. Appeal of Denial

The decision to deny a liquor or beer license can be appealed to the State Tax Appeals Board.

Statute: 16-4-411, MCA

6. Fees

Permit and license fees are listed in the statute and rule. The fee to process a new application for an all-beverage license is $100, while the processing fee for determination of a resort area is $250.

Statute: 16-4-501, MCA

Rule: 42.12.111, ARM

RENDERING OR DISPOSAL PLANTS

1. Applicability

An annual license, which expires on December 31 of the year issued, is required from the Department of Livestock.

Statute: 81-9-301(1), MCA

Contact: Department of Livestock
Disease Control Bureau

2. Fees

The license fee for rendering or disposal plants is $5.

Statute: 81-9-301(2), MCA

SLAUGHTERHOUSES - MEATPACKING PLANTS

1. Applicability

An annual license, which expires on December 31 of the year issued, is required from the Department of Livestock. The Department of Health & Environmental Sciences retains jurisdiction over the supervision and regulation of sanitary conditions in slaughterhouses and meatpacking plants.

Statute: 81-9-201, 202, MCA

Contact: Department of Livestock
Disease Control Bureau

2. Fees

The annual license fee for operating a slaughterhouse or meatpacking plant is $1.

FORESTRY

TIMBER SALES

1. Applicability

Timber sales on state forest lands are administered by the Department of State Lands, and final approval is granted by the Board of Land Commissioners.

2. Procedures

a) Timber proposed for sale in excess of 100,000 board feet must be advertised in a newspaper of the county in which the timber is located for a period of at least 30 days, during which time the Department can receive sealed bids up to the hour of the bid closing, as specified in the notice.

b) Upon award of sale, the purchaser must execute a formal agreement, approved by the Board, which describes the area where the timber is to be cut, the approximate quantity to be cut by species and the rate for each product of each species. The purchaser also is required to furnish a bond to the state in an amount equal to at least 20 percent of the estimated value of timber sold.

3. Restrictions on Sales

Lands classified as timberlands are not subject to sale, but the timber on those lands may be sold. (see STATE LANDS, p 14)

Statute: 77-2-303, 77-5-201 et seq., MCA

Contact: Department of State Lands
Forestry Division

4. Fees

The Board establishes fees for brush disposal and timber stand improvement on state lands. Check with the Department for the fee schedule.

Statute: 77-5-204(4), MCA

FOREST AREA ACTIVITIES

1. Applicability

Permits are required for OPEN BURNING on forest lands (see p 6), operation of PORTABLE SAWMILLS (see p 7), TIMBER REMOVAL (see p 8) and SLASH DISPOSAL (see p 9).

CONSERVATION DISTRICTS

1. Applicability

If forest lands are located within a Soil and Water Conservation District that has adopted land use regulations, forest activities may require approval from the Conservation District Supervisors. See AGRICULTURE - CONSERVATION DISTRICTS.

Statute: 76-15-701 et seq., MCA

Contact: Soil & Water Conservation District Supervisors.

HUNTING - FISHING - WILDLIFE MANAGEMENT

The Department of Fish, Wildlife & Parks is charged with the regulation of fishing, hunting and wildlife management, and issues all hunting and fishing permits and licenses, with the exception of aerial hunting permits (see below). The Fish & Game Commission establishes hunting and fishing seasons and restricts hunting and fishing in certain areas.

COMMERCIAL SEINING

1. Applicability

Any person who wishes to seine or capture non-game minnows for sale in any lake, stream or body of water must obtain a license from the Department.

Statute: 87-4-602, MCA

Rule: 12.7.201(1), ARM

Contact: Law Enforcement Division

2 Application Requirements

The applicant for a commercial seining license must submit a form provided by the Department, stating name, address, waters desired for seining and other information relating to the applicant's experience.

Rule: 12.7.201(1), ARM

3. Fees

The fee for a commercial seining license is $10.

Rule: 12.7.201(2), ARM

FISH AND GAME LICENSES

1. Applicability

a) A person wishing to hunt, fish or trap game animals, fish, furbearers, upland game birds and migratory game birds must obtain a license before engaging in such activities.

b) The applicant for a hunting or fishing license must complete the information required on the license application. Failure to do so means denial of the license. Fees vary.

Statute: 87-2-106, MCA

Rules: 12.3.101-301, ARM

Contact: Licensing Section

HUNTING AND FISHING REGULATIONS

1. Applicability

Hunting and fishing regulations are issued annually. Check with the Department for the latest requirements. Regulations govern specific activities in various areas throughout the state.

Contact: Law Enforcement Division

ICE FISHING SHELTER REGULATIONS

1. Applicability

Ice fishermen setting shelters on frozen waters at Brown's Lake, Georgetown Lake, Deadman's Basin, Lake Frances, Bearpaw Lake, Beaver Creek Reservoir, Hauser Lake and Lake Helena must adhere to the regulations for using ice fishing shelters.

Statute: 87-1-303, MCA

Rules: 12.6.101-108, ARM

Contact: Law Enforcement Division
Fisheries Division

MIGRATORY WATERFOWL PERMITS

1. Applicability

Regulations for migratory waterfowl permits are issued annually. Check with the Department for the latest requirements.

Contact: Wildlife Division
Law Enforcement Division

SHOOTING PRESERVES

1. Applicability

The Department issues operating licenses or permits for shooting preserves. All persons hunting on shooting preserves must have a valid residential or nonresident game bird license. Each shooting preserve is restricted to not more than 1,280 contiguous acres. No preserve may be located closer than 10 miles from another preserve or in areas that will substantially reduce hunting areas available to the public. Game that may be hunted on such a preserve is limited to artifically propagated pheasants, quail, partridges, turkeys, and other species as prescribed by the Department.

Statute: 87-4-501, through 504, MCA

Contact: Law Enforcement Division

2. Bird Tags

The Department will furnish self-locking pheasant tags to licensed shooting preserve operators for 10¢ each. The tags must then be used by persons hunting on the preserve.

Statute: 87-4-501, 525, MCA

Rule: 12.6.1201, ARM

3. Fees

Fees for shooting preserve licenses or permits are $50 per year for the first 160 acres of shooting preserve area, plus $20 per year for each additional 160 acres.

Statute: 87-4-503, MCA

USE OF POISON BAITS ON DEPARTMENT LANDS

1. Applicability

No 1080 baits can be placed on Department lands without written permission from the Fish & Game Commission.

Statute: 87-1-201, MCA

Rule: 12.9.106, ARM

Contact: Wildlife Division

WILD BIRD PERMITS - FALCONRY

1. Applicability

a) No person may hunt, capture, possess, sell or transport any non-game wild bird or part of a wild bird without a certificate or permit from the Department. Exceptions are sparrows, crows, starlings, magpies, rock doves, blackbirds, and other species designated by the Department.

b) It is unlawful for any person to possess or train a falcon, hawk, eagle, osprey or owl in the practice of falconry without a license.

c) A permit is required from the Department to hunt, capture or kill a wild bird for the purposes of banding for scientific studies, salvaging birds killed in accidents, collecting abandoned birds nests for schools and museums, and nursing sick or injured birds.

Statute: 87-5-201, 202, 204, MCA

Rule: 12.9.301, ARM

Contact: Wildlife Division
Law Enforcement Division

2. Fees

The fee for a falconry license is $3 per year. No fee is charged for a wild bird permit.

Statute: 87-5-204(2), MCA

Rule: 12.9.301(5), ARM

BREEDING GAME BIRDS AND ANIMALS

1. Applicability

Any person or corporation wishing to operate a game, game bird or fur farm must obtain a permit from the Department. (See ROADSIDE ZOOS - POSSESSION OF WILD ANIMALS, p 64.)

Statute: 87-4-401, 402, MCA

Contact: Law Enforcement Division

FUR DEALERS

1. Applicability

Any person or corporation trading in skins or pelts must secure a fur dealer's license from the Department. The license is issued annually and expires April 30 of each year.

Statute: 87-4-301, MCA

Contact: Law Enforcement Division

2. Fees

The fee for a resident fur dealer's license is $10, while the fee for a nonresident fur dealer's license is $50.

Statute: 87-4-304, MCA

IMPORTATION OF FISH, FISH EGGS AND WILDLIFE

1. Applicability

a) It is unlawful to bring live or dead salmon fish or eggs into this state without written certification from the state of origin that the fish are free of diseases specified in 12.7.501, ARM. The Department of Fish, Wildlife & Parks may inspect shipments of imported fish or eggs at any point in the state to ensure compliance with these regulations. The Department also may

impound shipments for further inspecting and testing if reasonable cause exists.

Statute: 87-3-221, MCA

Rule: 12.7.501, ARM

b) It is unlawful to import any fish, fish eggs, game birds, game or fur-buring animals, or non-game wildlife into the state without approval from the Department.

Statute: 87-3-105, MCA

OUTFITTERS AND GUIDES

1. Applicability

No person may act as an outfitter, professional guide or resident guide without first obtaining a license from the Department. The applicant may be issued a general or special license.

Statute: 87-4-121, MCA

Rule: 12.6.501, ARM

Contact: Law Enforcement Division

2. Application Requirements

a) Applicants for an outfitter's or professional guide's license must complete the application form furnished by the Department. The application must be filed with the director, and must include information regarding the applicant's experience, knowledge and equipment.

b) A person may make only one application for an outfitter's or guide's license in any one license year. An examination for proficiency in several areas is required.

c) An outfitter must be at least 18 years old, mentally and physically competent, a citizen of the United States and a resident of Montana for a full 2 years; own or hold under written lease an outfitter's company; be a person with demonstrated respect for and compliance with the laws of any state or the U.S. regarding fish and game, natural resources conservation and preservation of the natural ecosystem; not have been convicted of more than one violation of the fish and game laws of any state or the U.S. within the past 5 years, or of any act of gross negligence or misconduct; have a minimum of 5 years' experience in

hunting and related activities and a minimum of 2 years' work as a professional guide with a licensed general outfitter or 2 years as a licensed special outfitter.

d) A Professional guide must be at least 18 years old, mentally and physically competent, a citizen of the United States and a resident of Montana, be endorsed and recommended by an outfitter with a valid license, and not have been convicted of more than one violation of fish and game laws in the U.S. within the past 5 years, or any act of gross negligence or misconduct.

Statute: 87-4-122 through 125, MCA

Rules: 12.6.509, 510, ARM

3. Fees

The following license fees are required: (a) resident outfitter, $50; (b) resident professional guide, $15 (c) nonresident outfitter, $150; (d) nonresident professional guide, $100.

Statute: 87-4-127, MCA

ROADSIDE ZOOS - POSSESSION OF WILD ANIMALS

1. Applicability

a) It is unlawful to operate a roadside menagerie or zoo (i.e., a place where one or more wild animals, birds or reptiles are kept in captivity for exhibition or attracting trade) without a permit from the Department.

b) It is unlawful to possess a wild animal (skunk, fox, raccoon, bat or other designated animals capable of transmitting rabies) except as part of a fur-bearing enterprise, zoo, or for scientific research. Animals possessed for 6 months prior to January 1, 1982 are exempt.

Statute: 87-4-803, MCA
50-23-101, et seq., MCA

Rule: 12.6.1301, ARM

Contact: Law Enforcement Division

2. Application Requirements

Application for a roadside menagerie or zoo permit must be completed on forms provided by the Department. No permit can be issued or renewed until the roadside zoo or menagerie is covered by an insurance policy to cover accidents on the premises.

Statute: 87-4-803, MCA

Rule: 12.6.1308, ARM

3. Fees

The annual permit fee for five or fewer animals is $10. The annual fee for more than five animals is $25.

Statute: 87-4-803, MCA

SNARE TRAPPING

1. Applicability

Snare traps may be used lawfully to take predators, furbearers, unprotected nongame animals and unprotected nongame birds. It is unlawful to set snare traps on private property without the owner's consent. Traps must be tagged with proper identification and set so as not to unduly endanger livestock.

Statute: 87-3-107, MCA

Rule: 12.6.1001, ARM

Contact: Law Enforcement Division

PREDATOR CONTROL - AERIAL HUNTING

1. Applicability

Aerial hunting of predatory animals without a permit is prohibited by anyone except employees of the state, its subdivisions or the federal government within the scope of employment. Any landowner having residence and domicile in Montana may engage in the aerial hunting of wild animals over his land without a permit, provided he annually notifies the Department in writing that he plans to engage in aerial

hunting and gives an adequate description of the location of the land over which he will hunt.

Statute: 87-7-501,505, MCA

Rule: 32.22.101, ARM

Contact: Department of Livestock
Vertebrate Pest Control Bureau

2. Application Requirement

Applicants for an aerial hunting permit must apply to the Department on forms provided by it. Permits are issued only to licensed pilots and residents of Montana.

Statute: 81-7-503, MCA

Rule: 32.22.102, ARM

3. Fees

Fees for permits are as follows: (a) $30 for less than one year; (b) $40 for 1-2 years; (c) $50 for 2-3 years.

Statute: 81-7-504, MCA

Rule: 32.22.103, ARM

LODGING ESTABLISHMENTS

1. Applicability

Hotels, motels, retirement homes and rooming houses require annual licenses, which expire on December 31 each year, from the Department of Health & Environmental Sciences. Validation is required from the local health officer.

Statute: 50-51-201, MCA

Rule: 16.10.604, ARM

Contact: Local Board of Health

Department of Health & Environmental Sciences
Food & Consumer Safety Bureau

2. Application Requirements

Application for a lodging establishment license must be made on forms provided by the Department. Renewals may be obtained by paying the required annual fee of $20.

Statute: 50-51-202 through 204, MCA

3. Procedure for Obtaining License

a) Plans for new construction or for additions or alterations to existing hotels, motels or tourist homes must be submitted to the Department for review and approval before construction can begin.

b) The local health officer must validate the license within 15 days after issuance by the Department. If not, the license is denied.

c) A denial by the local health officer may be appealed to the local Board of Health within 30 days.

Statute: 50-51-214,215, MCA

Rule: 16.10.603, ARM

4. Fees

The fee for application or renewal of a lodging establishment license is $20.

Statute: 50-51-204, MCA

Rule: 16.10.604(3), ARM

5. Criteria

The license will be issued if the plan review shows compliance with all applicable building safety codes, and a pre-license inspection shows compliance with Department regulations.

Rule: 16.10.603, et seq., ARM

TOURIST CAMPGROUNDS - TRAILER COURTS - INDUSTRIAL CAMPS

1. Applicability

Licenses are required from the Department of Health & Environmental Sciences. Validation is required from the local health officer Inspections are conducted by state and local health officers. Plans are submitted to the Department, the local health officer and, where applicable, the local zoning authorities. Operators of water supply systems for trailer courts must be certified by the Board of Water and Wastewater Operators. Trailer courts and campgrounds may also require review under the subdivision laws. See SUBDIVISIONS and PUBLIC WATER SUPPLY.

Statute: 50-52-101 et seq., MCA

Rules: Trailer Courts; 16.10.703, ARM
Tourist Campgrounds; 16.10.901, ARM
Industrial, Logging Camps; 16.10.903, ARM
Campgrounds; 16.10.902, ARM

Contact: Local Board of Health

Department of Health & Environmental Sciences
Food & Consumer Safety Bureau

2. Application Requirements

Application for a license to operate a tourist campground, trailer court or industrial camp must be made to the Department on forms

provided. Licenses expire on December 31 of the year issued. Scaled layout plans of a proposed house-trailer park must be prepared and submitted to the Department, the local health authority and the local zoning authority, if any, for approval prior to establishing a house-trailer park or enlarging an existing house-trailer park.

Statute: 50-52-201,203, MCA

3. Procedure for Obtaining License

a) The local health officer must validate the license within 15 days after issuance by the Department. Failure to do so is a denial of the license.

b) A denial on the part of the local health officer may be appealed to the local Board of Health within 30 days.

Statute: 50-51-208,209, MCA

4. Fees

The fee for a license is $20.

Statute: 50-52-202, MCA

MINING

RECORDING OF MINING CLAIMS

1. Applicability

Any person who discovers a vein, lode or ledge of rock on federal public domain land bearing valuable mineral deposits must follow these procedures:

a) Post a written notice at the point of discovery;

b) Within 30 days, mark boundaries of the site;

c) Within 60 days, comply with U.S. mining laws and record the location with the County Clerk and Recorder, who in turn must

provide a copy within 20 days to the Department of State Lands; and

d) File an annual work report with the county.

Statute: 82-2-101 et seq., MCA

Contact: County Clerk & Recorder

U.S. Department of the Interior
Bureau of Mines
Regional Office

LANDOWNER NOTIFICATION

1. Applicability

When surface and mineral rights are in separte ownership, the surface owner must be notified and give his approval in writing of the proposed operations before any prospecting, exploration or development of subsurface minerals can take place.

Statute: Landowner Notification Act, 82-2-301 et seq., MCA

Contact: Surface owner

MINING RIGHT-OF-WAY

1. Applicability

The owner of mining rights may establish a right-of-way over adjacent lands if necessary to work the claim. Application is made to the district court.

Statute: 82-2-201 et seq., MCA

Contact: District Court

2. Procedure to Obtain Right-of-Way

a) If the mine owner cannot obtain the agreement of adjacent landowners for right-of-way, he may file a complaint in district court.

b) After receipt of the complaint, the district judge must issue a summons to the parties to appear on a day set by the judge, which must be within 10 days.

c) If the judge determines that the right-of-way is needed, he must award the mine owner the right-of-way and establish a commission of three persons to assess damages to the lands used as right-of-way.

d) Use of right-of-way can commence only upon payment of the assessed damages.

Statute: 82-2-203 through 208, MCA

3. Appeal of Assessed Damages

Any party may appeal the commissioners' assessment of damages to the district court within 10 days after the report is filed.

Statute: 82-2-209, MCA

COAL AND URANIUM MINING: PROSPECTING PERMITS

1. Applicability

An operator must obtain a prospecting permit from the Department of State Lands for prospecting on lands not included in a current operating permit. A reclamation plan and bond must be submitted.

Statute: Strip and Underground Mine Reclamation Act, 82-4-201 et seq., MCA

Rules: 26.4.1001-1015, 1101-1125, ARM

Contact: Department of State Lands
Reclamation Division

2. Application Requirements

a) The application for a prospecting permit must be made in writing, notarized and submitted to the Department in duplicate on forms furnished by the Department. A detailed prospecting map and a prospecting reclamation plan must accompany the application. A description of the proposed method of exploration and type of equipment to be used must be included. Prior to obtaining a prospecting permit, the applicant must file a reclamation and revegetation bond with the Department in an amount determined by

it, based upon the estimated cost to the Department of required reclamation and restoration work.

b) At least 30 days but not more than 60 days prior to the permit's anniversary date, the operator may submit an application for a permit renewal, stating number of holes permitted and drilled, listing surface disturbances and supplying an updated map.

Statute: 82-4-226, MCA

Rules: 26.4.1001,1003,1102, ARM

3. Fees

The application fee for a prospecting permit is $100.

Statute: 82-4-226(3), MCA

4. Criteria

The permit for prospecting for coal and uranium may be denied for numerous reasons, including, but not limited to, adverse reclamation possibilities exceptional topographic characteristics, biological productivity, ecological fragility, historic or geologic importance, or threat of a public hazard.

Statute: 82-4-227,228, MCA

Rules: 26.4.1141-1148, ARM

COAL AND URANIUM MINING: MINE SITE LOCATION PERMITS

1. Applicability

A mine site location permit is required prior to commencing any preparatory work (i.e., any on-site disturbances, including construction of roads, rail spurs, buildings, power lines, etc., but excluding prospecting) unless an operating permit has been granted under the Strip and Underground Mine Reclamation Act (See Coal and Uranium: Operations, p. 74) and the application for such a permit includes a long-range mining plan. The siting permit is valid for one year and renewable until an operating permit is obtained.

Statute: Strip and Underground Mine Siting Act, 82-4-104,113, MCA

Contact: Department of State Lands
Reclamation Division

2. Application Requirements

Any person who desires a mine-site location permit must file an application with the Department of State Lands. The application must contain a reclamation plan for any preparatory work and other information required by the Department. The Department may require maps showing a water drainage plan; location of all adjacent waters, buildings, roads, cemeteries, etc.; geologic cross sections; a public liability insurance policy, etc. The applicant is also required to file with the Department a surety bond payable to the state in a sum determined by the Board of Land Commissioners. The sum may not be less than $200 nor more than $10,000 for each acre of land disturbed by preparatory work, with a minimum of $5,000.

Statute: 82-4-122,123,222, MCA

Rules: 26.4.1101-1129, ARM

3. Procedure for Obtaining Permit

The Department must notify the applicant for a mine-site location permit of its decision within 365 days of receipt of the complete application. If the proposed site is approved, the Department must issue a mine-site location permit. If the location is not approved, the Department must notify the applicant in writing, stating reasons why the location is unacceptable. The Department also must notify the applicant within 365 days whether the mine plan is acceptable. If the plan is not acceptable, the Department must state its reasons. It may propose modifications, delete areas or reject the entire plan.

Statute: 82-4-122, MCA

4. Fees

A fee of $50 is required for a mine-site location permit.

Statute: 82-4-123, MCA

5. Criteria

The mine-site location permit may be denied for numerous reasons, including, but not limited to, inadequate reclamation plan, adverse reclamation possibilities, exceptional topographic characteristics, biological productivity, ecological fragility, historic or geologic importance, threat of a public hazard, or designation of the land as unsuitable for mining.

Statute: 82-4-227,228, MCA

Rules: 26.4.1141-1148, ARM

1. Applicability

The Workers' Compensation Division of the Department of Labor & Industry enforces mine safety regulations. An operator must obtain a permit from the Department of State Lands before engaging in strip or underground mining. The permit must designate all lands reasonably anticipated to be mined during the applicable 5-year period. A permit is renewable on each 5-year anniversary upon application to the Department at least 30 but not more than 60 days prior to the renewal date so long as the operator is in compliance with the permit requirements and the reclamation plan. As rapidly, completely and effectively as the most advanced state of the art will allow, the operator must reclaim and revegetate the land affected by his operation, except that underground tunnels or shafts need ot be revegetated.

Statutes: Montana Coal Mining Code (Mine Safety) 50-73-101 et seq. and Strip and Underground Mine Reclamation Act, 82-4-201 et seq. MCA

Rules: 24.30.1302, 26.4.301-912, ARM

Contact: Department of Labor & Industry
Workers' Compensation Division
Safety & Health Bureau

Department of State Lands
Reclamation Division

2. Application Requirements

a) Permit

An operator desiring a coal or uranium mining permit must file an application furnished by the Department of State Lands, which contains a complete and detailed plan for the mining, reclamation, revegetation and rehabilitation of the land and water to be affected by the operations. The application must include information regarding climate, geology, hydrology, neighboring surface waters, vegetation, etc. For applications to mine areas containing federal coal, 10 copies of all applications, maps, reports and other information are required. Three copies must be sent to the Department and 7 to the office of Surface Mining, U.S. Department of the Interior. For applications to mine areas not containing federal coal, 3 copies of all applications, maps, reports and other information must be submitted to the Department. Each applicant for a coal mining permit also must submit as part of the application a certificate issued by an insurance company authorized to do business in Montana certifying that the applicant has a public liability insurance policy for the strip or

undergound mining and reclamation operations for which the permit is sought. Furthermore, prior to the issuance of a permit, the operator must file with the Department a bond payable to the State of Montana with surety satisfactory to the Department in a sum to be determined by the Board of Land Commissioners of not less than $200 for each acre or fraction of an acre of the land affected, with the minimum bond to be $10,000.

b) Reclamation Plan

The reclamation plan must set forth in detail the manner in which the applicant intends to comply with provisions regarding grading, backfilling, water control, topsoiling, reclamation and coal conservation, as well as all measures to be taken to eliminate damages to landowners and members of the public, their real and personal property, public roads, streams and all other public property from soil erosion, subsidence, landslides, water pollution and hazards dangerous to life and property. Furthermore, the plan must list the steps to be taken to comply with applicable air and water quality laws and rules and any applicable health and safety standards.

Statute: 82-4-222,223,231, MCA

Rules: 26.4.302,308, ARM

3. Procedure for Approval of Plan

a) The application for a permit or major revision of a permit, which must contain the reclamation plan, must be submitted to the Department, which then notifies various local governmental bodies, planning agencies, sewage and water treatment authorities, and water companies in the area of the proposed mining. Any person interested in the proposed mining, or an officer of any federal, state or local governmental agency has the right to file written objections to the application within 30 days of the applicant's published notice. If written objections are filed and an objector requests an informal conference, the Department must hold an informal conference in the area of the proposed mining after sufficient public notice.

b) The Department must notify the applicant by certified or registered mail within 120 days after receipt of the complete application regarding acceptability of the plan. The Department may extend the 120 days an additional 120 days upon notification of the applicant in writing. The Department then must make written findings granting or denying the permit or revising the application in whole or in part. A landowner, operator or any person affected by this decision may by written notice request a hearing by the Board of Land Commissioners, and the hearing must be held within 30 days of the request. The Board must issue its decision within 20 days.

c) Every reclamation plan is subject to annual review and modification.

Statute: 82-4-231, MCA

4. Fees

An application fee of $50 is required prior to issuance of a permit.

Statute: 82-4-223, MCA

5. Criteria

The permit for coal and uranium mining operations may be denied for numerous reasons, including, but not limited to, inadequate reclamation plan, adverse reclamation possibilities, exceptional topographic characteristics, proposed location on a significant alluvial valley floor, biological productivity, ecological fragility, historic or geologic importance, threat of a public hazard or designation of the land as unsuitable for mining.

Statute: 82-4-227,228, MCA

Rules: 26.4.1141-1148, ARM

URANIUM - SOLUTION EXTRACTION

1. Applicability

In addition to a mining permit from the Department of State Lands (see Coal and Uranium Mining), permits are required from the Department of Health & Environmental Sciences for uranium mining by the solution extraction (in-situ) method.

Statute: 75-5-401 through 404, 82-4-301 et seq., MCA

Rules: 16.20.1101 et seq., ARM

Contact: Department of Health & Environmental Sciences
Water Quality Bureau
Department of State Lands
Reclamation Division

2. Application Requirements

The owner or operator of any proposed source discharging pollutants to groundwater for purposes of in-situ mining must file a completed Montana In-Situ Mining of Uranium Control System (MIMUCS) permit application no less than 180 days prior to commencing operations. The following information is required: site definition, including an extensive topographic map of the area; plans for retention of process water and the disposal of waste waters; plans for emergency storage, handling, treatment and disposal of leaks and spills from the waters pumped underground; a detailed monitoring program to establish baseline water quality in the production area, accompanied by maps of monitoring wells; procedures to be used to prevent leachate excursion, actions taken to confirm, determine the extent of and correct an excursion; description of well completion, various information, including a chemical description of all waste residue, proposed procedure for restoration of affected groundwater, reclamation measures and any other information the Department deems appropriate.

Rule: 16.20.1105, ARM

3. Procedure for Obtaining Permit

(1) In order to determine an applicant's capability to conduct in-situ mining, pilot testing may be required by the Department of Health & Environmental Sciences after receipt of a MIMUCS permit application.

(2) Upon receipt of the application and after any required pilot testing, the Department must make a tentative determination regarding issuance or denial of the MIMUCS permit.

(3) Criteria for denial are (1) the application is inadequate or (2) degradation of state waters cannot be prevented.

(4) If the tentative decision is to issue the permit, the Department must mail the MIMUCS application to any interested person and circulate it within the geographical area.

(5) The Department must provide a period of not less than 30 days following the public notice to allow for written public comment.

(6) A request for a public hearing must be made within the 30-day period cited in (5) above. Public notice of any hearing on the permit application must be circulated at least 30 days prior to the hearing.

(7) If no hearing is held, the Department must make a final determination on the application no later than 180 days after receipt of the completed application. If a hearing is held, the Department must make a final determination following review of the information presented at the hearing.

4. Duration of Permit

A permit is issued for a fixed term, not to exceed 10 years.

Rules: 16.20.1106,1107,1108,1110,1115, ARM

HARDROCK MINING: EXPLORATION

1. Applicability

a) Hardrock mining applies to ores other than oil, gas, bentonite, clay, coal, sand, gravel, phosphate rock or uranium. An exploration license is required from the Department of State Lands and a reclamation and revegetation bond must be posted. Exemptions are made for operations conducted on federal lands if the Board of Land Commissioners determines that applicable federal rules are at least as stringent, and for persons collecting rock samples as a hobby or for sale in any amount not exceeding $100.

b) "Small miners" are also exempt. A "Small miner" is an operator who removes less than 36,500 tons annually, who does not hold a hardrock mining permit for other operations in the state and whose operations leave no more than 5 acres disturbed and unreclaimed - or two operations of less than 5 acres each which are at least one mile apart and are not operated simultaneously. For small miners, "disturbed areas" do not include certain access roads. The small miner must agree in writing not to pollute streams and to protect human and animal safety.

Statute: 82-4-301 et seq., MCA

Rules: 26.4.101 et seq., ARM

Contact: Department of State Lands
Reclamation Division

2. Application Requirements

The application for an exploration license must be made in writing, notarized and submitted to the Department in duplicate on forms furnished by it. An exploration map or detailed sketch must accompany the applications. The Department determines the amount of the reclamation and revegetation bond, which cannot be less than $200 or more than $2,500 for each acre or fraction thereof of the disturbed area. The operator must agree to reclaim any damaged land and not be in default of any other reclamation law.

Statute: 82-4-332,338, MCA

Rules: 26.4.102,1101-1121, ARM

3. Procedure for Obtaining License

On approval by the Board of Land Commissioners, the applicant will receive a hardrock exploration license renewable annually on application and payment of renewal fee.

Rule: 26.4.102, ARM

4. Fees

The fee for an exploration license is $5.

Statute: 82-4-332, MCA

HARDROCK MINING: OPERATIONS

1. Applicability

An operating permit must be obtained from the Department of State Lands prior to commencement of mining. (See exploration, p. 78, for exemptions.) A reclamation and revegetation bond is required, and a reclamation plan must be submitted. Annual reports and fees are required, and the Department makes annual inspections for compliance with the reclamation plan. The Workers' Compensation Division enforces safety regulations.

Statutes: 82-4-301 et seq., and 50-72-101 et seq., MCA

Rules: 26.4.101 et seq., and 24.30.1301, ARM

Contact: Department of State Lands
Reclamation Division

Department of Labor & Industry
Workers' Compensation Division
Safety & Health Bureau

2. Application Requirements

The applicant must obtain an operating permit for each mine complex, on a form obtained from the Department of State Lands, containing the proposed minerals to be mined, proposed reclamation plan, mining plan and a detailed map of the area. The applicant must file a surety bond in an amount determined by the Department of State Lands of not less than $200 or more than $2,500 for each acre or fraction therof of the disturbed area.

Statute: 82-4-335,338, MCA

Rules: 26.4.107,1101-1120, ARM

3. Procedure for Obtaining Permit

a) Time Requirements, Hearing

(1) All applications for hardrock mining permits must be reviewed for completeness within 30 days. The application is considered complete unless the applicant is notified of any deficiencies within 30 days.

(2) Unless the review period is extended, the Board of Land Commissioners must review the adequacy of the proposed reclamation plan and mining plan within 30 days of the determination that the application is complete or within 60 days if the Board does not notify the applicant of any deficiencies in the application.

(3) Prior to issuance of a permit, the Department must inspect the site. If the site is not accessible due to extended adverse weather conditions, the Department may extend the time period described in (2) above by not more than 180 days to allow for inspection of the site. If the Department determines that additional time is needed to review the application and reclamation plan for a major operation, the Department and applicant must negotiate to extend the period described in (2) above by not more than 365 days.

(4) The operating permit must provide that the reclamation plan may be modified by the Board after timely notice and opportunity for hearing.

Statute: 82-4-335,337, MCA

4. Large-Scale Developments/Local Impact Board

a) When a proposed mining project will employ 100 people or cause a local population increase of 15%, the applicant must submit an economic impact plan to the affected counties and to the Hardrock Mining Impact Board. The plan must include development timetables, work-force projections, projected costs of utility and other public services needed to serve the added population, necessary financing, etc.

b) The affected local governments have 90 days in which to submit objections to the Impact Board. If objections cannot be resolved, the Impact Board will hold a hearing. Within 60 days after the hearing, the Board will issue findings and amend the impact plan as necessary. Within 30 days after receipt of the final approved plan, the developer must provide a written guarantee that it will make all necessary payments required by the plan.

c) Impact plan review is conducted concurrently with the Department of State Lands permit review. Mining may not commence until the Hardrock Mining Impact Board approves an impact plan and the permittee has provided a written guarantee to the Department and the Hardrock Mining Impact Board that it will make all payments according to the time schedule in the approved impact plan.

Statute: 90-6-301 et seq., MCA

Contact: Board of County Commissioners
Department of Commerce, Impact Section

5. Fees

The application fee for a hardrock mining permit is $25.

Statute: 82-4-335, MCA

Rule: 26.4.107, ARM

6. Criteria

The permit for hardrock mining may be denied if (1) the plan of development, mining or reclamation conflicts with the Montana Clean Air Act (75-2-101 et seq., MCA, see page 41), the Montana Water Quality Act (75-5-101 et seq., MCA, see page 23), the Public Water Supply Act (75-

6-101 et seq., MCA, see page 21), or (2) the reclamation plan is insufficient to accomplish the proposed reclamation.

OPEN CUT MINING

1. Applicability

Open cut mining applies to bentonite, clay, scoria, phosphate rock, sand or gravel. No mining is allowed unless the miner has entered into a reclamation contract with the Board of Land Commissioners. A reclamation plan must be submitted. Exemptions may be available for state and local government agencies, small operations, (less than 10,000 cubic yards removed) or for federal lands, if the Board determines that federal regulations are at least as stringent. The Workers' Compensation Division enforces safety regulations.

Statutes: Open Cut Mining Act, 82-4-401 et seq., and 50-72-101 et seq., MCA

Rules: 26.4.201 et seq., and 24.30.1301, ARM

Contact: Department of State Lands
Reclamation Division

Department of Labor & Industry
Workers' Compensation Division
Safety & Health Bureau

2. Application Requirements

An operator must submit an application for a reclamation contract to the Department of State Lands on forms approved by the Board of Land Commissioners. Two copies of all submitted materials are required. Also required are a bond of at least $200 for each affected acre, a map of the intended operations, and detailed descriptions of the mining and reclamation procedures, haul roads and topographic area. The operator also must submit a reclamation plan to the Board before commencing any open cut mining. The Board must approve the plan within 30 days, unless the period is extended an additional 30 days.

Statute: 82-4-433,434, MCA

Rule: 26.4.203, ARM

3. Fees

An application fee of $50 is required for an open cut mining contract.

Statute: 82-4-432, MCA

4. Criteria

The Board of Land Commissioners will enter into a contract with the operator if it determines that the fee, bond and detailed reclamation plan satisfy the law. If the Board, however, determines that the mining or reclamation of an area cannot be carried out according to the law, the application will not be approved and a contract to mine will not be issued.

Rule: 26.4.204, ARM

PROSPECTING ON STATE LANDS

1. Applicability

Prospecting permits must be obtained from the Department of State Lands to prospect for metalliferous metals (e.g., gold, silver, lead, zinc, copper, platinum, iron and all other metallic minerals) or gems (e.g., sapphires, rubies and other stones known as "precious" or "semiprecious," but not including stones used in construction work) on state lands.

Statute: 77-3-101 et seq., MCA

Contact: Department of State Lands
Land Administration Division

2. Application Requirements

The applicant for a prospecting permit on state lands is required to pay the issuance fee. The permittee also must pay an annual fee during the life of the permit.

3. Fees

The prospecting permit fee is set by the Department and approved by the Board of Land Commissioners. Check with the Department.

Statute: 77-3-101, MCA

Rule: 26.2.401, ARM

OPERATIONS ON STATE LANDS: COAL MINING

1. Applicability

Coal mining leases on state lands are awarded by competitive bidding at no less than fair market value. The primary term is for 10 years and so long thereafter as coal is produced in commercial quantities. Rent and royalties must be paid. The Board of Land Commissioners may not issue leases (1) to any corporation the majority stock of which is controlled by interests foreign to the United States, other than Canada or Mexico, or (2) if it is determined that strip-mining methods for coal extraction would adversely affect the methods of recovery of deep minable coal from future operations on state lands.

Statute: 77-3-301, et seq., MCA

Rules: 26.3.301 et seq., ARM

Contact: Department of State Lands
Centralized Services Division

2. Application Requirements

All coal leases must comply with the Strip and Underground Mine Siting Act (82-4-101 et seq., MCA, see page 72) and the Strip & Undergound Mine Reclamation Act, (82-4-201 et seq., MCA, see page 74). Mining operations must be as systematic and orderly as possible to prevent the waste of coal. All applications for coal leases may be made at any time during the year on a form furnished by the Department of State Lands. An adequate and sufficient description of the lands sought for lease must be included.

Statute: 77-3-306, MCA

Rule: 26.3.306, ARM

3. Procedures for Obtaining Lease

a) When sufficient applications for leases have been received, a lease sale will be announced through publication in a trade journal of general circulation in the coal mining industry or in Montana's major newspapers for 4 weeks preceding the sale.

b) Prior to issuing a coal mining lease, the Board of Land Commissioners must evaluate the coal and land proposed for lease in order to determine the fair market value of any coal reserves located on the land.

c) Sales of state coal leases are through competitive bidding. The Department may require a bid deposit in any amount it may determine, up to 10 percent of the appraised value of the coal offered for lease.

Statute: 77-3-312, MCA

Rule: 26.3.206, ARM

4. Fees, Rent, Royalty

a) A fee of $10 is required for a lease application.

b) Rent is on a per acre basis but in no case can it be less than $2 per acre.

c) The lessee must pay in cash a royalty on all coal produced from the leased premises at a rate of not less than 10 precent of the coal's value.

Statute: 77-3-316, MCA

Rules: 26.3.306,309,310, ARM

OPERATIONS ON STATE LANDS: METALLIFEROUS MINERALS AND GEMS

1. Applicability

The Board of Land Commissioners leases state lands for the purpose of mining for metalliferous minerals and gems. (See Exploration, p 78, for definitions.) Royalties must be at least 5 percent of the returns from the mine.

Statute: 77-3-101 et seq., MCA

Contact: Department of State Lands
Land Administration Division

2. Application Requirements

Application for a mining lease must be made on forms furnished by the Department of State Lands.

Statute: 77-3-111, MCA

Rule: 26.3.106, ARM

3. Procedure for Obtaining Lease

a) When the Department receives an application for a lease, it may advertise for written bids on the tract of land for a reasonable time in the official county newspaper of the county where the tract is located.

b) If bids are accepted, the tract will be leased to the highest bidder unless the Board determines that the bid is not in the state's best interests. All sales take place in the county courthouse of the affected county.

c) Prior to the leasing of state lands for mining, the Department must conduct an investigation of the lands to determine the character of the lands for mining and the amount of royalty. The Department may require the applicant to pay for this investigation in a sum not to exceed $500.

d) The lease will contain provisions on prospecting and mining, royalty, etc. The Board also may require payment of a bond or authorize pooling agreements and unit plans of operation.

Statute: 77-3-111,112,119,120,121, MCA

Rule: 26.3.106, ARM

4. Fees

The fee for the metalliferous mineral or gem mining lease is $10. No application fee is required.

Rule: 26.2.401, 26.3.106, ARM

OPERATIONS ON STATE LANDS: STONE, GRAVEL AND OTHER NON-METALLIFEROUS MINERALS

1. Applicability

Leases for nonmetallic minerals (e.g., stone, limestone, oil shale, clay, bentonite, calcite, talc, mica, ceramic, asbestos, marble, diatomite, gravel or sand, phosphate, sodium, potash, sulphur, fluorite, borite or any other nonmetallic mineral, exclusive of coal, oil or gas) on state lands are issued on a royalty basis for no longer than a 10-year period. Monthly reports are required. The Board of Land Commissioners may issue permits on its terms and conditions to the Department of Highways, the Board of County Commissioners or any local governing body for the removal and use of stone, gravel or sand from state lands for the construction and maintenance of streets, bridges, highways, etc.

Statute: 77-3-201 et seq., MCA

Contact: Department of State Lands
Land Administration Division

2. Application Requirements

See: Operations on State Lands; Metalliferous Minerals and Gems

3. Procedure for Obtaining Lease

See: Operations on State Lands; Metalliferous Minerals and Gems

4. Fees

The application fee of $10 is required for a nonmetalliferous lease. Upon issuance of the lease, an additional $10 fee is required.

Statute: 77-3-202, MCA

Rule: 26.2.401, ARM

OIL AND GAS

1. Applicability

Notices of intention to explore and to drill must be filed with the Oil & Gas Conservation Board of the Department of Natural Resources & Conservation, and drilling permits must be obtained. Wells must comply with spacing units and pooling orders established by the Board and be operated in compliance with the Board's regulations. Operations also must comply with water pollution regulations of the Department of Health & Environmental Sciences. (See Water Discharge Permits, p 23). A public utility may apply to the Board for certification of eminent domain power to maintain underground gas storage reservoirs. Waste of oil & gas is prohibited.

Statute: 82-11-101 et seq., 82-10-305, MCA

Rules: 36.22.601 et seq., ARM

Contact: Department of Natural Resources & Conservation
Oil & Gas Conservation Division

Department of Health & Environmental Sciences
Water Quality Bureau

2. Application Requirements

Notice of intention to drill or conduct seismic operations must contain information on identification of area, logs of activity, restoration of surface lands to their previous grade, protection of ground & surface water, drilling, casing and plugging of wells, and public access to records. A bond must be posted to guarantee proper abandonment procedures. No exploration or development drilling may take place until a permit is issued.

Statute: 82-11-122,123,134, MCA

Rule: 36.22.601, ARM

3. Procedure for Obtaining Permit

a) The Board may not issue a permit or other order without a public hearing after at least 10 days' notice. Notice is to be published in one or more issues of a newspaper in general circulation in

Helena and a newspaper of general circulation in the county where the land is situated. The Board also may cause publication to be made in a trade journal or bulletin of general circulation in the oil and gas industry in Montana.

b) The Board must issue its decision within 30 days after the hearing.

4. Fees

Permit fees required for drilling of an oil or gas well are as follows:

a) For each well whose estimated depth is 3,500 feet or less, $25;

b) From 3,501 feet to 7,000 feet, $75;

c) 7,001 feet and deeper, $150.

Statute: 82-11-134, MCA

Rules: 36.22.603, ARM

GEOPHYSICAL EXPLORATION

1. Applicability

Persons engaged in the business of geophysical exploration using seismographs and explosives must obtain an exploration permit from the county clerk and recorder.

Statute: 82-1-101 et seq., MCA

Contact: Secretary of State
County Clerk and Recorder
Board of Oil and Gas Conservation

2. Application Procedures

a) The applicant must file a notice of intent with the clerk and recorder of each county in which exploration will be conducted.

b) The applicant must also file a surety bond with the Secretary of State, for the purpose of indemnifying property owners against damage to property.

c) On being notified that the surety bond has been filed, the county clerk and recorder will issue an exploration permit valid for the

calendar year in which it was issued. The county clerk will then notify the Board of Oil and Gas Conservation, which will check whether the applicant is in compliance with all applicable laws and rules.

d) A report must be filed with the county clerk and recorder within 3 months after the firing. Shot holes must be plugged as specified by the Oil and Gas Conservation Board.

Statute: 82-1-103 through 106, 108, MCA

3. Notice to Surface Users

Before commencing operations, the person must notify any surface users of the land as to the schedule and locations of planned exploration activities.

Statute: 82-1-107, MCA

4. Fees

The fee for a geophysical exploration permit is $5 per calendar year.

OPERATIONS ON STATE LANDS: OIL AND GAS

1. Applicability

The Board of Land Commissioners is authorized to lease any state-owned lands for the purpose of oil and gas exploration or drilling. Residents of the state may lease state lands for these purposes; non-residents must obtain a certificate of authority to transact business in the state from the Secretary of State prior to applying for a lease.

Statute: 77-3-401, MCA

Rule: 26.3.205, ARM

Contact: Department of State Lands
Centralized Services Division

2. Procedure for Obtaining Lease

a) A person wishing to lease state lands for oil and gas operations must submit an application for a lease on forms furnished by the Department of State Lands.

b) Sale of oil and gas leases normally is held once each quarter (March, June, September, December). Sale of each lease takes place through competitive, oral bidding.

c) Notice of each sale is published in the Montana Oil Journal or in one of the state's general circulation publications.

d) The term of an oil and gas lease is 10 years. An oil and gas lease issued on state lands may not exceed 640 acres, except that any section surveyed by the United States containing more than 640 acres may be included under one lease. Leased lands must be generally compact and contiguous.

e) Owners of state oil and gas leases may enter into agreements with others for drilling and other operations. Pooling agreements are also possible. The Board may assign oil and gas leases to qualified assignees.

Statute: 77-3-404,405,406,429,430,438, MCA

Rules: 26.3.206,207, ARM

3. Fee/Rental

The fee required for an oil and gas lease application is $10. Rentals are not less than $100 per year.

Rule: 26.3.206,209, ARM

UNDERGROUND STORAGE OF NATURAL GAS ON STATE LANDS

1. Applicability

The Board of Land Commissioners is authorized to lease state lands for the underground storage of natural gas.

Statute: 77-3-501 et seq., MCA

Contact: Department of State Lands
Centralized Services Division

2. Procedures

a) The Board may order a hearing prior to issuance of a lease. A lessee must furnish a bond to indemnify the state against damage or loss.

b) Lease terms may not exceed 20 years. The lessee has a preferential right to renewal.

3. Criteria

The lessee must use all reasonable precautions to prevent waste of oil or gas developed on the land, the entry of water into storage formation, or injury to oil or gas deposits.

OPERATIONS ON CITY, COUNTY OR SCHOOL DISTRICT LANDS

1. Applicability

The governing body of any city, county or local school district may lease its property for oil and gas development. The term of the lease may not exceed 10 years, and royalties must be at least 12.5 percent.

Statute: 82-10-201 through 204, MCA

Contact: Local Governing Body

ROAD USE - FUELS

GASOLINE DEALERS - DISTRIBUTORS

1. Applicability

All gasoline distributors must file an application for a license with the Department of Revenue prior to conducting business in the state. Any person other than a licensed distributor must obtain a license from the Department before selling gasoline on which a tax refund may be claimed.

Statute: 15-70-202, 203, MCA

Rule: 42.27.301, ARM

2. Application Requirements

a) The applicant for a gasoline distributor's license must complete the required Department forms and file a security with the Department in an amount determined by it.

b) The application for a license to sell gasoline on which a tax refund may be claimed must include the applicant's name, address, place of business and other information as required. Licenses must be renewed and the fee paid every 3 years.

Statute: 15-70-202,203, MCA

Rule: 42.27.301, ARM

3. Fees

The fee for a refund-gasoline seller's license is $3.

Statute: 15-70-203, MCA

Rule: 42.27.301, ARM

SALE OF PETROLEUM PRODUCTS

1. Applicability

Petroleum products must meet tests and standards set by the Department of Commerce. A license from the Department is required to sell petroleum products. All licenses expire on December 31 of each year. Pump and meter license fees and vehicle tank license fees must be paid.

Statute: 82-15-101 et seq., MCA

Rules: 8.5.301,302, ARM

Contact: Department of Commerce
Weights & Measures Division

2. Fees

A fee schedule for pump and meter licenses and vehicle tank licenses is provided in 82-15-105, MCA.

Statute: 82-15-105, MCA

1. Applicability

Any person who uses diesel fuel or fuel other than gasoline to propel a motor vehicle (other than a private passenger vehicle) on state highways must obtain a permit from the Department of Revenue. The special fuel user's permit is valid until February 28 of the year following the year of issuance. A special fuel dealer's license or special vehicle permit are also required. Posting of bond for either the special fuel dealer's license or special fuel user's license is required. Any person operating a special fuel-powered vehicle on state roads and highways or any non-resident entering the state with agricultural harvesting equipment must purchase a special fuel user's or special fuel vehicle permit, respectively.

Statute: 15-70-302, 303, 304, 311, MCA

Rules: 42.28.301,401, ARM

Contact: Department of Revenue
Motor Fuels Division

2. Procedures for Obtaining License or Permit

a) Upon recipt of the application and bond in proper form, the Department must issue a special fuel dealer's or special fuel user's license or a special fuel vehicle permit unless (1) the applicant held a prior license or permit that had been revoked, (2) the applicant has falsely represented himself as another person or (3) for any other sufficient cause.

b) If the Department denies the application for a special fuel dealer's or special fuel user's license, or a special fuel vehicle permit, the applicant may appeal the decision to the Department, which must grant a hearing after at least 10 days' written notice.

Statute: 15-70-305, MCA

3. Fees

a) A temporary special fuel permit fee is $20. The permit is valid for a period of 72 hours.

b) A temporary special fuel permit for a non-resident operating agricultural harvesting equipment is $30 per unit for a period beginning July 1 and ending October 31.

Statute: 15-70-312, MCA

SPECIAL VEHICLE PERMITS

1. Applicability

The Department of Highways may issue special permits for the operation of oversized vehicles on public highways. Those persons or firms engaged in the transportation of new vehicles over Montana's highways from manufacturing areas to dealers in this state or other states and foreign countries may apply annually to the Department of Justice for a permit to use the state's highways, and pay a fee of $100. The permit is issued after processing.

Statute: 61-10-101 et seq., 61-4-301 et seq., MCA

Rules: 18.8.101 et seq., ARM

Contact: Department of Highways
Gross Vehicle Weight Division
Special Permits Bureau

Department of Justice

2. Fees

a) In addition to the regular registration and gross vehicle weight fees, a fee of $6 for each permit issued in excess of specified sizes and weights must be paid.

b) A term permit, which expires on December 31 of each year, may be issued to a dealer in implements of husbandry and self-propelled machinery. The fee for this permit is $75.

Statute: 61-10-101 through 110, 124, MCA

SNOWMOBILES

1. Applicability

Snowmobiles must be registered with the County Treasurer. Operation is not allowed on public highways. Special temporary use permits are issued by the Department of Fish, Wildlife & Parks, which also enforces snowmobile noise regulations.

Statute: 23-2-601 et seq., MCA

Rules: 12.6.601 et seq., ARM

Contact: County Treasurer

Department of Fish, Wildlife & Parks
Enforcement Division

2. Fees

a) Application for registration of a snowmobile must be accompanied by a decal fee of $2 and a registration fee of $.50.

b) A fee of $6 is required for a nonresident temporary-use permit, which is valid for 30 days.

c) A fee in lieu of tax on snowmobiles less than 4 years old is $22. In all other cases, the fee is $15.

Statute: 23-2-615,616, MCA

SOLID WASTE - HAZARDOUS WASTE

SOLID WASTE DISPOSAL (NON-HAZARDOUS)

1. Applicability

A license is required from the Department of Health & Environmental Sciences for disposal of solid waste (with the exception of one's own non-hazardous waste on one's own land) and for the operation of a solid waste disposal facility. Sites are approved and licensed by the Department and validated by local health officials.

"Solid waste" means all putrescible and nonputrescible wastes, including but not limited to garbage; rubbish; refuse; hazardous wastes (see Hazardous Waste Disposal); ashes; sludge from sewage treatment plants, water supply treatment plants or air pollution control facilities; construction and demolition wastes; dead animals; discarded home and industrial appliances; and wood products or byproducts. It does not mean municipal sewage, industrial wastewater effluents, mining wastes regulated by the Department of State Lands, slash and forest debris regulated by the Department of State Lands or marketable wood byproducts.

Statute: Solid Waste Management Act, 75-10-201 et seq., MCA

Rules: 16.14.501 et seq., ARM

Contact: Local Health Officer

Department of Health & Environmental Sciences
Solid Waste Management Bureau

2. Application Requirements

A person who wishes to apply for a license to conduct solid waste disposal or to operate a solid waste disposal facility must submit an application for the license to the Department on forms furnished by the Department. The application must include the applicant's name and business address, location of the proposed facility, plan of operation and other information as requested.

Statute: 75-10-221(3), MCA

Rules: 16.14.508,509, ARM

3. Procedure for Obtaining License

a) Time Requirements: The Department will notify the applicant if additional information is required. If the additional information is not received within 90 days, the application must be resubmitted. The Department must notify the local health officer within 15 days of receipt of the completed application.

b) Public Notification, Hearings, Appeal of Denial

(1) The Department must send one copy of its proposed decision to the applicant and three copies to the local health officer for public posting.

(2) Publication of the proposed decision is required in local newspapers.

(3) The public has 30 days to submit written comments.

(4) The Department notifies the local health officer of the final decision after the 30-day comment period, and he/she has 15 days to validate the decision.

(5) If either the Department or the local health officer denies the application for a license, the applicant has 30 days to appeal the decision.

Statute: 75-10-222 through 224, MCA

Rules: 16.14.511,514, ARM

4. Fees

No fees are required unless an Environmental Impact Statement is prepared. (See Montana Environmental Policy Act, p. 113)

Statute: 75-1-201 et seq., MCA

Rule: 16.2.701 et seq., MCA

5. Variances

Any person may apply to the Board of Health & Environmental Sciences for a variance from the rules issued pursuant to the Solid Waste Management Act. The Board may grant a variance if it finds that (1) failure to comply with the rules does not result in a danger to public health or safety, or (2) compliance with the rules would produce hardship to the applicant without producing benefits to the public health and safety that outweigh the hardship.

Statute: 75-10-206, MCA

HAZARDOUS WASTE DISPOSAL

1. Applicability

a) Hazardous wastes must be properly contained and labeled. A waste is defined as hazardous if it is included in an EPA list of specific wastes that are hazardous or if it is ignitable, corrosive, reactive or toxic as determined by a specified extraction procedure. Licenses from the Department of Health & Environmental Sciences are required to operate a hazardous waste disposal site or handle hazardous wastes and radioactive materials. Permits from the Department are required to transport or dispose of hazardous wastes. Substances regulated under the Strip & Underground Mining Act (see p. 74) are exempt.

b) Disposal of "large quantity" radioactive material, byproduct material and special nuclear material is prohibited in Montana. The prohibition includes nuclear fuels, nuclear power plant wastes, and uranium or thorium mill tailings. Certain special use materials (educational, scientific, research, medical, etc) are exempt from this prohibition.

Statute: Montana Hazardous Waste Act, 75-10-401 et seq., MCA
75-3-102,302, MCA

Rules: 16.44.101 et seq., ARM

Contact: Department of Health & Environmental Sciences
Solid Waste Management Bureau

2. Application Requirements

Any person who wishes to construct or operate a hazardous waste management facility must apply to the Department for a permit on forms provided by it. An application must contain, at a minimum, the applicant's name and business address, the location of the proposed facility, a plan of operation and maintenance, and a description of pertinent site characteristics. A permit may be issued for a period specified by the Department, and it is subject to either renewal or revocation depending on compliance with the permit's provisions.

Statute: 75-10-406, MCA

3. Procedures for Obtaining Permit

a) The Department may, in the event of an imminent and substantial danger to public health or the environment, issue a temporary emergency permit to any person for treatment, storage or disposal of hazardous waste or to any facility to handle hazardous waste not covered by the existing facility permit. Such emergency permits may be oral or written, may not exceed 90 days in duration and may be terminated by the Department at any time prior to 90 days.

b) The Department may grant permits by rule to classes or categories of hazardous waste management facilities where the owner or operator already holds a license or permit from the Department pursuant to other state environmental statutes or where an interim period exists until final administrative action on a permit application is made.

c) An Environmental Impact Statement (EIS) is required for site approval of a hazardous waste facility. (See Montana Environmental Policy Act, p. 113).

d) If it is determined that an application for a certificate under the Montana Major Facility Siting Act (Title 75, Chapter 20) will result in the generation, transportation, storage or disposal of hazardous wastes, the Department must conduct its review concurrently with the studies of air and water quality conducted under the provisions of the Montana Major Facility Siting Act. A decision to grant or deny a permit for the treatment, storage or disposal of hazardous wastes is appealable concurrently with and subject to the same procedures established for the appeal of the Department's air and water quality certification decision under the Montana Major Facility Siting Act. (See Major Facility Siting, p 48)

Statute: 75-10-406, 407, MCA

4. Generators/Transporters

Generators and transporters of hazardous waste must comply with state and federal reporting requirements, including a manifest system for tracking the movement of all hazardous wastes.

Rules: 16.44.401 et seq., 501 et seq., ARM

5. Variances

A person who is a generator or transporter of hazardous wastes or who owns or operates a hazardous waste management facility may apply to the Board of Health & Environmental Sciences for a variance or partial variance from the application of or compliance with any requirement of the Montana Hazardous Waste Act or any rule adopted under it. The Board may grant a variance or partial variance if it finds that (1) the applicant's actions or proposed actions regarding generation, transportation, treatment, storage or disposal of hazardous wastes do not constitute a danger to public health or safety or cause substantially adverse environmental effects; or (2) the application of or compliance with the requirement or rule would produce unreasonable hardship to the applicant without equal or greater benefits to the public.

Statute: 75-10-408, MCA

MOTOR VEHICLE WRECKING FACILITIES

1. Applicability

An annual license from the Department of Health & Environmental Sciences is required to operate a motor vehicle wrecking facility. Such facilities must be properly shielded from view.

Statute: 75-10-504,511 MCA

Rules: 16.14.201,202, ARM

Contact: Department of Health & Environmental Sciences
Solid Waste Management Bureau

2. Application Requirements

Applications for a license to operate or maintain a motor vehicle wrecking facility can be obtained from the Department. The license expires on December 31 of the year issued.

Statute: 75-10-511, MCA

Rule: 16.14,201, ARM

3. Procedure for Obtaining License

The application for a license must include certification from the appropriate local government officials tha the proposed facility does not violate local zoning ordinances. All such information must be included before the Department can act on the application.

4. Criteria

(a) The Department may deny, suspend or revoke a motor vehicle wrecking facility's license for reasons of theft, forgery, omission or fraud.

(b) The Department's decision to deny, suspend or revoke a license may be appealed to the Board of Health & Environmental Sciences within 30 days of the decision.

Statute: 75-10-511, 514, 515, MCA

Rules: 16.14.201, 204, ARM

5. Fees

The Department requires an annual fee of $50 for a license. An additional fee of $2 is required to dispose of a junk vehicle.

Statute; 75-10-511,513, MCA

ROADSIDE JUNKYARDS

1. Applicability

If a Motor Vehicle Wrecking Facility (see above) is located within 1,000 feet of the right-of-way of a public highway, the Department of Highways may participate in the licensing process and object to the issuance of the license. Other types of junkyards, not licensed by the Department of Health & Environmental Sciences and located within 1,000 feet of a public right-of-way, are licensed by the Department of Highways.

Statute: 75-15-211 through 215, MCA

Rules: 18.6.101 et seq., ARM

Contact: Department of Health & Environmental Sciences
Solid Waste Management Bureau

Deparment of Highways
Right-of-Way Bureau

2. Criteria

No license may be granted for a junkyard within 1000 feet of the right-of-way of an interstate or federal primary highway unless it is adequately screened from view from the roadway or is located in an area zoned for industrial use, or in an unzoned industrial area.

3. Appeal of Denial

An applicant for a roadside junkyard license may appeal a revocation or denial to the Board of Health & Environmental Sciences.

Statute: 75-15-212, MCA

4. Fees

The fee for a junkyard license is $25 per year.

Statute: 75-15-214, MCA

Rule: 18.6.121, ARM

SUBDIVISIONS

SUBDIVISION AND PLATTING ACT

1. Applicability

a) All divisions of land which create a parcel of fewer than twenty acres must be surveyed and platted in accordance with the Act. No transfer of title may be filed until a certificate of survey or subdivision plat is filed with the county clerk.

b) The review requirements do not apply to subdivisions resulting from relocation of common boundaries; sales to immediate family members; sales which include a covenant running with the land which provides for exclusively agricultural use of the land; "occasional sales"; subdivisions resulting from court orders, mortgages, or severance of oil, gas or water interests from surface ownership; creation of cemetery lots; or lease or rental for farming or agricultural purposes. Although subdivision review does not apply in the above situations, the certificate of survey requirements do apply. Special requirements apply to condominiums and planned unit developments.

Statute: 76-3-101 et seq., MCA

Contact: Local Governing Body
Local Planning Board
Department of Commerce

2. Procedures

a) The developer submits his preliminary plat to the appropriate local governing body. (If a planned unit development is contemplated, the developer should receive PUD designation from the governing body prior to submission of the preliminary plat.)

b) The governing body of a city or county with a planning board or master plan must seek the advice of the planning board on all matters relating to subdivision approval, and may require compliance of subdivision plats with the master plan.

c) An environmental assessment prepared by the developer must accompany the preliminary plat. The assessment must contain a description of hydrology, topology, vegetation, wildlife, and soils, and a community impact report describing the demands the development will make on local services (fire, police, roads, etc.)

d) The governing body, after notice and a public hearing, makes its final decision within 60 days of receipt of the preliminary plat.

e) The developer must donate a portion of the subdivided land for public parks. In special cases, a cash contribution may be accepted in lieu of parkland.

f) The preliminary plat may be approved for one year, and the governing body may require a bond to guarantee completion of improvements called for before the final plat will be approved.

g) The final plat will be aproved by the governing body if it is in conformance with the conditions imposed on the preliminary plat. A final plat may not be filed with the county clerk until the State Department of Health has lifted all sanitary restrictions. (See SANITATION IN SUBDIVISIONS p. 105).

3. Criteria

The basis for the governing body's decision is whether the subdivision would be in the public interest. (i.e., the need for the project, public opinion, and effects on agriculture, local services, taxation, the natural environment, wildlife, and public health and safety.)

Statute: 76-3-608, MCA

4. Summary Review

Summary review procedures are available in certain situations. If the subdivision is in compliance with a master plan and zoning regulations, it is deemed to be in the public interest and is exempt from the environmental assessment requirement. The development may also be exempted from all or part of the environmental assessment requirement if it contains fewer than ten parcels and less than twenty acres. Tracts with five or fewer parcels are eligible for special expedited procedures.

SANITATION IN SUBDIVISIONS

1. Applicability

All divisions of land which create a parcel of less than 20 acres, condominiums and recreational vehicle parks, are subject to sanitary review. A subdivision plat cannot be filed with the county clerk, nor can structures be built or occupied until sanitary restrictions relating to water supply, sewage and solid waste disposal are lifted by the Department of Health & Environmental Sciences. Review of minor subdivisions of five or fewer parcels is delegated to local officials. Subdivisions within master planning areas and for which municipal water and waste disposal services will be provided may not be subject to sanitary restrictions.

Statute: Sanitation in Subdivisions Act, 76-4-101 et seq., MCA

Rules: 16.16.101 et seq., ARM; local regulations

Contact: Department of Health & Environmental Sciences
Subdivision Bureau

Local governing body

2. Application Requirements

The applicant who wishes to subdivide land must complete the joint subdivision application form for review by local and Department of Health officials. A copy of a preliminary plat or final plat, maps, proposed public water and sewage systems, and environmental assessment and a subdivision approval statement from the local health officer are also required.

Statutes: 76-3-504,603, 76-4-104,125, MCA

Rules: 16.16.102-104, ARM

3. Procedure for Obtaining Certification

(a) Upon receipt of a subdivision application, the Department of Health & Environmental Sciences has 60 days for final action. If an environmental impact statement is required, final action must be taken within 120 days. (See Montana Environmental Policy Act, p. 113)

(b) The Department may enter agreements with local governments regarding review of water supply, sewage and solid waste disposal facilities for subdivisions of five or fewer parcels. Local government officials have 50 days to recommend action on the

application to the Department. The Department then has 10 days to take final action.

4. Criteria

The Department's rules set standards and procedures relating to size of lots, topology, geology, hydrology, type of facilities proposed, and other factors affecting public health and the quality of water for uses relating to agriculture, industry, recreation and wildlife. There must be evidence of adequate water supply, drainage, sewage, and solid waste disposal systems. The Department will issue a certificate of approval when it is satisfied that water pollution will not occur, the water supply is of adequate quantity and acceptable quality, and solid waste disposal is in accordance with state laws and regulations.

5. Appeal of Denial

The denial of plat certifications for a subdivision may be appealed to the Board of Health & Environmental Sciences.

Statute: 76-4-104,125, MCA

Rules: 16.16.106,108, ARM

6. Fees

A schedule of fees, depending on the complexity of the project, is set out in the rules. Fees may be up to $30 per parcel or condominium unit.

Statute: 76-4-105, MCA

Rules: 16.16.801 et seq., ARM

CONSERVATION DISTRICTS

1. Applicability

If the subdivision is located within a Soil & Water Conservation District that has adopted land use regulations, approval may be required from the Conservation District Supervisors.

Statute: 76-15-701 et seq., MCA

Contact: Soil & Water Conservation District Supervisors

SALE OF SUBDIVIDED LAND

1. Applicability

Subdivisions of five or more parcels, a parcel of which is less than five acres in size, which are to be offered for sale outside of Montana, must be registered with the Board of Realty Regulation, and a notice of intention must be filed. Annual reports are required. In addition, if the subdivision involves fifty or more lots, not all of which are five or more acres, the developer must register the subdivision with the U.S. Department of Housing & Urban Development.

Statute: 76-4-1101 et seq., MCA
Interstate Land Sales Act, 15 USC 1701 et seq.

Rules: 40.56.410, ARM

Contact: Department of Commerce
Board of Realty Regulation

U.S. Department of Housing & Urban Development
Office of Interstate Land Sales

2. Application Requirements

a) Prior to the time when subdivided lands are to be offered for sale or lease outside Montana, the owner, his agent or the subdivider must notify the Board in writing of his intention to sell or lease. The notice of intention must contain the following information:

(1) the name and address of the owner;

(2) the name and address of the subdivider;

(3) the legal description and area of lands, together with a map showing the layout proposed and relation to existing streets or roads;

(4) a true statement of the conditions of the title to the land, particularly including all encumbrances thereon;

(5) a true statement of the terms and conditions on which it is intended to dispose of the land, together with copies of any and all forms of conveyance intended to be used;

(6) a true statement of the provision for legal access, sewage disposal and public utilities in the proposed subdivision, including water, electricity, gas and telephone facilities;

(7) copies of any advertising, information, promotion brochures or similar material depicting the property which might cause or tend to induce purchase of the property or an interest therein.

(8) such other information as the owner, his agent or the subdivider may desire to present.

b) The Board may investigate any subdivision being offered for sale or lease.

c) It is unlawful for any person to incorporate in any advertising material or use for any advertising purposes the Board's results or findings.

Statute: 76-4-1104,1109,1114, MCA

3. Fees

a) A filing fee of $50 is required to file a notice of intention.

b) If the Board of Realty Regulation requires additional information on the proposed sale, the corresponding questionnaire requires a filing fee of $100.

Statute: 76-4-1105,1107, MCA

UTILITIES

PUBLIC SERVICE COMMISSION

The Public Service Commission has general authority over public utilities (i.e., organizations which provide heat, street-railway service, light, power, water, telegraph or telephone service). The PSC issues certificates of public convenience and necessity, and regulates rates and services.

Statute: 69-1-101 et seq., MCA

Rules: 38.1.101 et seq., ARM

Contact: Department of Public Service Regulation
Utilities Division

PIPLINES - MAINS - UTILITY LINES

1. Applicability

Permission to construct and operate natural gas pipelines must be obtained from the Public Service Commission. Construction of gas, water and other mains within city limits is regulated and approved by the city or town council. Boards of county commissioners have similar authority outside of municipalities. City or town councils may permit extension of utility lines outside of city limits. All plans for construction or extension of water or sewer lines must be approved by the Department of Health & Environmental Sciences (see Sewer Systems, p. 22 and Public Water Supplies, p. 21)

Statutes: 69-13-101, 7-13-4101, 7-13-4311,4312, 7-3-4452, 7-13-2101, 75-6-112, MCA

Rules: 16.20.201 et seq., 38.5.101 et seq., ARM

Contact: City or Town Council

Board of County Commissioners

Department of Public Service Regulation
Utilities Division

Department of Health & Environmental Sciences
Water Quality Bureau

OVERHEAD LINES

1. Applicability

The city or town council may regulate erection of poles and cables within city limits. The owner of agricultural lands may petition the District Court for permission to relocate overhead lines.

Statute: 69-4-401 et seq., 7-13-4106, MCA

Contact: City or Town Council

HIGHWAY UTILITY EASEMENTS

1. Applicability

Easements along state highway rights-of-way are granted by the Department of Highways. City councils and boards of county commissioners grant similar approval along city streets and county roads, respectively.

Statute: 7-13-4101, 7-13-2101, MCA

Rules: 18.7.221-241, ARM

Contact: City or Town Council

Board of County commissioners

Department of Highways
Right-of-Way Bureau

2. Procedure for Obtaining Easements

a) The utility must prepare and submit a notice of its proposed occupancy to the appropriate Division Office of the Department of Highways. The notice must be submitted in triplicate, accompanied by utility plans showing the locations of the proposed facilities with respect to the highway.

b) The supervisor or chief will review the occupancy as proposed by the utility. If approved, he must sign it, and if not, he must specify in writing the reasons the proposal does not comply with the standards.

c) The utility may resubmit its proposal after making the necessary changes to comply with the standards.

Rule: 18.7.232., ARM

MAJOR FACILITY SITING

1. Applicability

Certification by the Board of Natural Resources & Conservation and the Department or Board of Health & Environmental Sciences is required for construction of major utilities (power generation plants, transmission lines, pipelines, etc.) For details and agency contacts, see p. 48.

Statute: 75-20-101 et seq., MCA

Rules: 36.7.1201 et seq., ARM

IMPROVEMENT AND UTILITY DISTRICTS

1. Applicability

A number of funding mechanisms are available to cities and counties for the construction of capital improvements such as streets, malls, lighting, parking, water & sewer systems, etc. Provisions vary, but typically, an improvement district may be established by the local governing body. In some cases, a petition by residents of the district is required. A board of directors may be elected or appointed, or the governing body itself may be in charge. The district may sell bonds to finance the improvements, and an assessment is levied on benefitted property to service the bond debt and to operate and maintain the improvements. In some cases, user fees may be assessed. Potential developers should check with local authorities to determine applicable requirements.

Statutes: Special Improvement Districts: 7-12-2101 et seq, MCA
Rural Improvement Districts: 7-12-4101 et seq, MCA
Lighting Districts: 7-12-2201 et seq, 7-12-4301 et seq., MCA
Street Parking: 7-12-4501 et seq, MCA
Metropolitan Sewer District: 7-13-101 et seq, MCA
County Water/Sewer District: 7-13-2201 et seq, MCA
Public Sewer Systems: 7-13-4201 et seq, MCA
Municipal Sewage/Water Systems: 7-13-4301 et seq, MCA
Municipal Revenue Bonds: 7-7-4401 et seq, MCA
Industrial Revenue Bonds: 90-5-101 et seq, MCA

WEATHER MODIFICATION

1. Applicability

A license and permit from the Board of Natural Resources & Conservation are required to engage in weather modification and control activities.

Statute: 85-3-201, MCA

Rule: 36.20.101, ARM

Contact: Department of Natural Resources & Conservation
Water Resources Division

2. Application Requirements

An applicant for a license and permit to conduct weather modification must file a notice of intention with the Department. The notice must include information on the applicant's name and address, the operations, the area to be affected and the materials and methods to be used. The Department must publish the notice at least once a week for 2 consecutive weeks in a newspaper in the affected county. Applicants for such licenses must demonstrate competence in the field of meteorology. A public hearing may be required.

Statute: 85-3-203,206,208 through 210, MCA

3. Fees

a) The fee for a license or renewal to conduct weather modification is $10.

b) The fee for a permit to conduct weather modifications operations equals 1 percent of the estimated cost of the operation.

c) The applicant must reimburse the Department for the costs of publishing the notice of intention.

Statute: 85-3-205,210(2),212, MCA

MONTANA ENVIRONMENTAL POLICY ACT/ENVIRONMENTAL IMPACT STATEMENTS

1. Applicability

Before taking any major action which will significantly affect the quality of the environment, a state agency must prepare an environmental impact statement discussing the environmental impacts of the proposed action, alternatives to the proposal which might have lesser impacts, mitigative measures, irretrievable commitments of resources, etc. The EIS requirement applies to issuance of state permits, licenses & approvals for private actions which will have significant environmental impacts. Individual agencies may have categorically exempted certain types of actions.

Statute: 75-1-101 et seq, MCA

Rules: Agriculture: 4.2.301 et seq, ARM
Fish, Wildlife, & Parks: 12.2.401 et seq, ARM
Health & Environmental Sciences: 16.2.601 et seq, ARM
Highways: 18.2.201 et seq, ARM
State Lands: 26.2.601 et seq, ARM
Livestock: 32.2.201 et seq, ARM
Natural Resources: 36.3.501 et seq, ARM

Contact: Specific Agency
Environmental Quality Council

2. Procedures

a) After receipt of a complete application for a permit or license, the agency will prepare a preliminary environmental review (PER) to determine whether a full EIS is necessary. If the need for an EIS is clear, the PER step may be by-passed.

b) If the PER indicates no potential significant environmental impact, no EIS need be prepared and the permit application will be processed normally.

c) If an EIS is necessary, the agency will prepare a draft EIS which is circulated to other agencies and to the public for comment. At least 30 days must be allowed for comment, with a 30 day extension available on request. The applicant has the opportunity to respond to comments.

d) If the agency determines it is necessary, a public hearing will be held after publication of the draft EIS, to receive public comment.

e) A final EIS will be prepared, if necessary, incorporating responses to comments on the draft, and comments received at the hearing, if one was held.

f) Final action on the permit may not be taken sooner than 45 days after publication of the draft EIS, nor sooner than 15 days after publication of the final EIS.

3. Fees

If the cost of preparing the EIS will exceed $2500, the agency may assess a fee from the applicant to help pay the costs of EIS preparation. The agency must notify the applicant within 30 days after receipt of the complete application if a fee will be required. A fee schedule based on the cost of the proposed project is set forth in the statute.

Statute: 75-1-203, MCA

4. Multi-Agency Projects

When a single project requires permits from two or more agencies, a lead agency will be designated to collect the EIS fee and to coordinate preparation of all necessary EISs.

MONTANA ADMINISTRATIVE PROCEDURE ACT

1. Applicability

Whenever a license or permit decision is required by statute to be proceeded by a hearing, the contested case provisions of the Administrative Procedure Act apply.

Statute: 2-4-601 et seq, MCA

Rules: 1.3.101 et seq, ARM

2. Procedures

All parties must be afforded an opportunity for hearing after reasonable notice. Parties are entitled to be represented by an attorney. If formal hearing procedures are followed, the rules of discovery and evidence, right to cross-examine witnesses, rules of privilege, etc., will apply. If all parties agree, less formal procedures may be followed. A hearing officer may be appointed to make findings and recommendations to the agency decision makers. A transcript of the hearing will be made available on request.

Within 30 days after the agency's final decision, an aggrieved party may appeal the decision to district court.

ADMINISTRATION, DEPARTMENT OF

Director, Morris Brusett
Room 155, Sam W. Mitchell Building
Helena, MT 59620
(406) 449-2032

ARCHITECTURE AND ENGINEERING DIVISION
Administrator, Phil[illegible]
1500 East Sixth Avenue
Helena, MT 59620
(406) 449-3104

Construction Bureau
1500 East Sixth Ave
Helena, MT 59620
(406) 449-3104

Building codes

BUILDING CODES DIVISION
Administrator, James Kembel
1218 East 6th Avenue
Helena, MT 59620
(406) 449-3933

State building code

AGRICULTURE, DEPARTMENT OF

Director, Gordon McOmber
Scott Hart Building
303 Roberts
Helena, MT 59620
(406) 449-3144

ENVIRONMENTAL MANAGEMENT DIVISION
Administrator, Gary Gingery
(406) 449-2944

Pesticides registration

PLANT INDUSTRY DIVISION
Administrator, Roy Bjornson
(406) 449-3730

Fertilizer registration

COMMERCE, DEPARTMENT OF

Director, Gary Buchanan
1424 Ninth Avenue
Helena, MT 59620
(406) 449-3494

AERONAUTICS DIVISION
Administrator, Michael Ferguson
Airport Road
Helena, MT 59620
(406) 449-2506

Pesticides, aerial applicator licensing
Air carriers
Airport licensing

DIVISION OF ECONOMIC AND COMMUNITY DEVELOPMENT
Administrator, Wallace Olson
(406) 449-3757

Licensing Coordinator, John Maloney
(406) 449-3494

Hardrock Mining Impact Section, Carol Ferguson
Hardrock Mining

INDIAN AFFAIRS UNIT
Coordinator of Indian Affairs, Merle Lucas
(406) 449-3702

ENVIRONMENTAL QUALITY COUNCIL
Director, Deborah Schmidt
1209 8th Ave
Helena, MT 59620
(406) 449-3742

Environmental Impact Statements

FISH, WILDLIFE AND PARKS, DEPARTMENT OF

Director, James Flynn
1420 East Sixth Avenue
Helena, MT 59620
(406) 449-3186

Game for scientific purposes

CENTRALIZED SERVICES DIVISION
Administrator, David Mott
(406) 449-4786

License Bureau
Chief, James Herman
(406) 449-4558

Fish and game licenses
Special permits and licenses

FISHERIES DIVISION
Administrator, Arthur Whitney
(406) 449-2559

Salmon eggs, importation
Streambed protection

LAW ENFORCEMENT DIVISION
Administrator, Erwin Kent
(406) 449-2452

Ice fishing Shelters
Hunting regulations
Snare trapping
Outfitters licensing
Breeding farms
Roadside zoos
Shooting preserves
Fur dealers
Snowmobiles
Shooting preserve bird tags
Commercial seining

WILDLIFE DIVISION
Administrator, Eugene Allen
(406) 449-2612

Migratory water fowl permits
Baits on Fish, Wildlife and Parks land
Wild bird permits

HEALTH AND ENVIRONMENTAL SCIENCES, DEPARTMENT OF

Director, John J. Drynan, M.D.
Room C108, Cogswell Building
Helena, MT 59620
(406) 449-2544

Deputy Director, John W. Bartlett (Permit Facilitator)
(406) 449-2544

ENVIRONMENTAL SCIENCES DIVISION
Administrator, Don Willems
Room A107, Cogswell Building
(406) 449-3948

Air Quality Bureau
Chief, Hal Robbins
Room A116, Cogswell Building
(406) 449-3454

Burning permits
Air pollution permits
Major facility certificates

Occupational Health Bureau
Chief, Larry Lloyd
Room A113, Cogswell Building
(406) 449-3671

Occupational emissions
Noise
Radioactivity

Solid Waste Management Bureau
Chief, Duane Robertson
Room A201, Cogswell Building
(406) 449-2821

Food & Consumer Safety Bureau
Chief, Vern Sloulin
Room B201, Cogswell Building
(406) 449-2408

Dairies
Food service establishments
Lodging establishments
Trailer courts, campgrounds

Subdivision Bureau
Chief, Ed Casne
Room A104, Cogswell Building
(406) 449-3946

Subdivisions

Water Quality Bureau
Chief, Steven Pilcher
Room A206, Cogswell Building
(406) 449-2406

Roadside junkyards
Solid waste disposal
Motor vehicle wrecking facilities
Hazardous waste disposal

Sewer systems
Water pollution permits
Public water supplies
Animal confinement facilities
Major facility certification
Oil and gas wells
Treatment plant operatator cert.
Uranium solution extraction
Hardrock mining

HIGHWAYS, DEPARTMENT OF

Director, Gary Wicks
Room A261, Highway Building
2701 Prospect Avenue
Helena, MT 59620
(406) 449-2482

Right-Of-Way Bureau
Chief, Robert Champion
(406) 449-2008

Permit Section Supervisor, Myron Holzheimer
(406) 449-2002

Encroachments
Utility easements
Outdoor advertising
Roadside junkyards

Area Field Maintenance Bureaus
(see INDEX II)

Approach permits

Special Permits Bureau
Chief, Wilbur Frickel
(406) 449-2476

Special vehicle permits

JUSTICE, DEPARTMENT OF
Attorney General, Mike Greely
Room 225, State Capitol
Helena, MT 59620
(406) 449-2026

LAW ENFORCEMENT SERVICES DIVISION

Fire Marshal Bureau
Chief, Robert Kelly
1409 Helena Avenue
Helena, MT 59601
(406) 449-2050

Fire inspection

LABOR AND INDUSTRY, DEPARTMENT OF

Commissioner, David Hunter
Room 412, Employment Security Building
Lockey and Roberts (8:00 a.m. - 12:00 noon)
35 South Last Chance Gulch (1:00 p.m. - 5:00 p.m.)
Helena, MT 59620
(406) 449-2621

WORKERS' COMPENSATION DIVISION
Administrator, Laury Lewis
815 Front Street
Helena, MT 59601
(406) 449-2047

Safety and Health Bureau
Chief, Ed Gatzemeier
510 Logan
Helena, MT 59601
(406) 449-3402

Coal mining safety regulations
Open cut mining safety regulations

LIVESTOCK, DEPARTMENT OF

ANIMAL HEALTH DIVISION
Administrator and State Veterinarian,
James W. Glosser, D.V.M.
Third Floor, Scott Hart Building
301 Roberts
Helena, MT 59620
(406) 449-2043

Disease Control Bureau
Chief, Bradford Newcomb, D.V.M.
(406) 449-2043

Slaughterhouses and meat packing plans
Rendering and disposal plants

Milk and Egg Bureau
Chief, Everett Tudor
(406) 449-2043

Dairies

BRANDS ENFORCEMENT DIVISION
Administrator, Les Graham
(406) 449-2043

Vertebrate Pest Control Bureau
Chief, Ken Seyler
(406) 449-2043

Aerial hunting permits

MONTANA HISTORICAL SOCIETY

Director, Dr. Robert Archibald
225 North Roberts
Helena, MT 59620
(406) 449-2694

Antiquity site preservation

NATURAL RESOURCES AND CONSERVATION, DEPARTMENT OF

Director, Leo Berry, Jr.
32 South Ewing
Helena, MT 59601
(406) 449-3712

FACILITY SITING DIVISION
Administrator, Randall Moy
25 South Ewing
Helena, MT 59601
(406) 449-4600

Major facility siting
certification

OIL AND GAS CONSERVATION DIVISION
Administrator - Geologist,
Charles Mayo
2535 St. Johns Avenue
Billings, MT 59102
(406) 656-0040

Assistant Administrator, Dee Rickman
25 South Ewing
Helena, MT 59601
(406) 449-2611

Oil and gas development
Geophysical exploration

ENERGY DIVISION
Administrator, Robert Robinson
25 South Ewing
Helena, MT 59601
(406) 449-3780

Conservation and Renewable
Energy Bureau
Chief, Rick Itami
(406) 449-3940

Geothermal development

WATER RESOURCES DIVISION
Administrator, Gary Fritz
32 South Ewing
Helena, MT 59601
(406) 449-2872

Weather modification

Engineering Bureau
Chief, Richard Bondy
(406) 449-2864

Dams and reservoirs
Floodplain regulations
Hydroelectric sites

Water Rights Bureau
Chief, Lawrence Siroky
(406) 449-3962

Water supply, private
Water appropriations

PUBLIC SERVICE REGULATION, DEPARTMENT OF

Director, William Optiz
1227 Eleventh Avenue
Helena, MT 59620
(406) 449-3017

TRANSPORTATION DIVISION
Administrator, Wayne Budt
(406) 449-2549

Motor carriers
Rail carriers

UTILITIES DIVISION
Administrator, Dan Elliott
(406) 449-2649

Pipelines
Utilities

REVENUE, DEPARTMENT OF

Director, Ellen Feaver
Room 455, Sam W. Mitchell Building
Helena, MT 59620
(406) 449-2460

LIQUOR DIVISION
Administrator, Leon Messerly
Room 375, Mitchell Building
Helena, MT 59620
(406) 449-2540

Liquor license
Resort license

MOTOR FUELS DIVISION
Administrator, Norris Nichols
Airport Road
Helena, MT 59620
(406) 449-3474

Special fuels
Gasoline dealers

SECRETARY OF STATE

James Waltermire
Room 202, State Capitol
Helena, MT 59620
(406) 449-2034

Geophysical exploration

STATE LANDS, DEPARTMENT OF

Commissioner, Gareth Moon
1625 Eleventh Avenue
Helena, MT 59620
(406) 449-2074

CENTRALIZED SERVICES DIVISION
Administrator, John Osborne

Cropland leases
Grazing leases
Geothermal leases
Mining leases
Hydroelectric sites
Oil and gas leases
Underground storage of natural gas

FORESTRY DIVISION
Administrator, Gary Brown
2705 Spurgin Road
Missoula, MT 59801
(406) 728-4300

Cabin Sites
Burning permits
Slash disposal
Portable sawmills
Christmans tree cutting
Timber removal
Timber sales

RECLAMATION DIVISION
Administrator, Bruce Hayden

Coal and uranium mining
Hardrock mining
Open cut mining

LAND ADMINISTRATION DIVISION
Administrator, Wilbur Erbe

Natural areas
Prosepcting permits on state lands
Mining leases

FISH, WILDLIFE AND PARKS, DEPARTMENT OF

Billings: 1125 Lake Elmo Drive
(406) 252-4654

Bozeman: Route 3, Box 274
(406) 586-5419

Glasgow: Route 1-129
(406 228-9347

Great Falls: Route 4, Box 243
(406) 545-3441

Kalispell: 490 North Meridian
(406) 755-5505

Miles City: Box 430
(406) 232-4365

Missoula: 3309 Brooks
(406) 721-5808

HEALTH AND ENVIRONMENTAL SCIENCES, DEPARTMENT OF

AIR QUALITY BUREAU --

Billings: 3314 Second Ave N.
Box 20296
(406) 248-3266

Kalispell: 3 Sunset Plaza
(406) 755-0062

FOOD AND CONSUMER SAFETY BUREAU --

Billings: 3302 2nd Ave. North
(406) 252-5697

OCCUPATIONAL HEALTH BUREAU --

Butte: 933 Hornet
(406) 782-3045

SUBDIVISION BUREAU --

Kalispell: 3 Sunset Plaza
(406) 755-5521

WATER QUALITY BUREAU --

Billings: 3302 2nd Ave. North
(406) 252-5697

Kalispell: 3 Sunset Plaza
(406) 755-5521

HIGHWAYS, DEPARTMENT OF

AREA FIELD MAINTENANCE BUREAUS --

Billings: Box 20437
(406) 252-4138

Helena: 2701 Prospect
(406) 449-2676

Bozeman: Box 1110
(406) 586-9562

Kalispell: 5th Ave. NE at Montana
(406) 755-5717

NATURAL RESOURCES AND CONSERVATION, DEPARTMENT OF

WATER RIGHTS BUREAU FIELD OFFICES --

Billings: Keith Kerbel
1537 Ave. D, Suite 121
(406) 248-6540 248-2265

Bozeman: Scott Compton
Bozeman Prof. Building
20 East Olive
(406) 586-3136 586-3137

Glasgow: Vivian Lighthizer
Box 894
(406) 228-2561

Havre: Robert Larson
Old Highway 2
Box 1828
(406) 265-5516 265-5517

Helena: T.J. Reynolds
28 South Rodney
(406) 449-3634 449-3635

Kalispell: Charles Brasen
Box 860
(406) 755-9288 755-9292

Lewistown: Sam Rodriquez
Box 438
(406) 538-7459 538-7012

Miles City: Walter Rolf
Box 276
(406) 232-6359

Missoula: David Pengelly
Box 5004
(406) 721-4284

ENGINEERING BUREAU FIELD HEADQUARTERS --

Alex Bailey
Southeast 534 Tammany Lane
Hamilton

HIGH PLAINS COOPERATIVE EXPERIMENT (HIPLEX) --
(Weather Modification)

Larry Holman
Box 1315
Miles City

STATE LANDS, DEPARTMENT OF

FORESTRY DIVISION AREA SUPERVISORS --

Billings: Don Kendall
Suite 121
1537 Ave. D
(406) 248-6540

Lewistown: Craig Roberts
USDA Building
613 Northeast Main
(406) 538-5989

Helena: Larry Pyke
8001 North Montana
(406) 449-3637

Missoula: Chuck Wright
1401 27th Ave.
(406) 728-4300

Kalispell: Jim Gregg
Box 490
(406) 755-6575

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CONSERVATION AND GRAZING DISTRICT SUPERVISORS

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- Grazing leases
- Land use regulations
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SHERIFF

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DISTRICT COURT

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- Food service establishments
- Lodging establishments
- Solid waste disposal facilities
- Subdivision, sanitary restrictions
- Tourist campgrounds
- Trailer courts

DEPARTMENT OF AGRICULTURE

FOREST SERVICE
(Contact local forest supervisor or district ranger)

Burning permits
Grazing leases

ARMY CORPS OF ENGINEERS

MISSOURI RIVER DIVISION
Box 103, Downtown Station
Omaha, Nebraska 68101
(406) 221-7299

OMAHA DISTRICT
6014 U.S. Post Office
215 North 17th
Omaha, Nebraska 68102
(402) 221-3900

NORTH PACIFIC DIVISION
Box 2870
Portland, Oregon 97208
(503) 221-3700

SEATTLE DISTRICT
4735 East Marginal Way S
Seattle, Washington 98134
(206) 764-3690

Stream preservation, wetlands
Dams and reservoirs

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

OFFICE OF INTERSTATE LAND SALES
Carroll Goodwin, Area Officer
Executive Tower
1405 Curtis Street
Denver, Colorado 80202
(303) 837-3102, 837-2428

DEPARTMENT OF THE INTERIOR

BUREAU OF MINES
East 360 Third Ave.
Spokane, Washington 99202
(509) 484-6810

Montana Liaison Office
Spokane, Washington 99202
(509) 439-5350

Recording of mining claims

BUREAU OF LAND MANAGEMENT
Granite Tower
Billings, Montana 59107
(406) 657-6561

Grazing leases

ENVIRONMENTAL PROTECTION AGENCY

MONTANA OFFICE
Director, Max Dodson
301 South Park Avenue
Drawer 10096
Helena, Montana 59626
(406) 449-5432

Air pollution permits (PSD)
Water Pollution
Pesticides

FEDERAL ENERGY REGULATORY COMMISSION

REGIONAL OFFICE
333 Market Street, Sixth Floor
San Francisco, Californai 94105
(415) 974-7177

Hydroelectric sites

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ERRATA
Montana Index of Environmental Permits
January 1982

NOTE: Because of the need to publish the Index prior to the adjournment of the Special Session of the Montana Legislature in November 1981, it was impossible to complete agency review of the document before printing. In addition, a number of new and amended rules have become effective subsequent to the November printing. For these reasons, the following errata sheets have been prepared.

Page 10: 3. Rule - 18.5.104, ARM.

Page 11: 1. Contact - Replace "Right-of-Way Bureau" with "Area Field Maintenance Bureau."

Page 12: 4. Criteria - (first sentence) Replace up to "...diminish water..." with "Local regulations must, as a minimum, insure that the proposed work will not materially..."; "... unsightly area." with "...undesirable visual impact.", and "...vary." with "...be more stringent."

Page 16: 1. Rules - add 36.2.401 et seq., ARM.

Page 17: 5. Contact - Under "Department of Fish, Wildlife and Parks" add "Ecological Services Division."

Page 21: 1. - Last sentence, "Operations..." to "Operators...."

Page 26: At the end of the second sentence add "...or Board, respectively."

Page 27: 5. - "Statute: 85-2-311, 312, MCA."

Page 28: 6. - Add, "Statute: 82-2-316, MCA."

Page 29: 3. - Add, "c) The fee for filing a notice of completion of groundwater development (yielding less than 100 gallons per minute) is $5." And, "Rules: 36.12.103, ARM."

Page 31: 2. - In the first paragraph after the word "license" add, "...or fertilizer registration...." And, in the second paragraph after the word "application" add, "...for fertilizer registration...."

Page 32: 3. b) - Replace "...registration..." with "...distribution..."

Page 41: 1. Rail Carriers - In the first sentence delete from "...issues certificates" on and replace it with, "...has

jurisdiction over intrastate rail rates and charges as well as intrastate station closures, facility abandonments, dualizations and employees safety."

Page 42: 3. c) - Replace the last sentence with, "Notice of the proposed decision will be sent to persons who have requested such notice."

Page 46: 3. a) - In the second sentence following "utilities" delete the word "and" and insert a comma. Also, following "cooperatives" insert "...and qualifying Montana corporations...."

Page 46: 1. - Replace the word "is" in the first sentence with "may be."

Page 47: Add to the first complete sentence on the page, "...in workplaces under state and local government jurisdiction. The federal Occupational Safety and Health Administration regulates private workplaces." And at the end of the next sentence add, "...or by the U.S. Nuclear Regulatory Commission."

Page 47: 2. - In the first sentence, following "handle" insert "those." Also, after the word "radioactive" delete the word "waste" and insert, "...materials under Department jurisdiction...."

Page 52: 2. Fees - add an "s" to the word "fee" and delete "...is $50." and replace it with, "...ranges from $5 to $50."

Page 55: 6. - Add to the last of the paragraph, "The annual fee for a resort retail liquor license in a resort area is $2000 per license."

Page 59: b) Rules - After "ARM" add, "...and annual rules issued by the Fish and Game Commission and the Department."

Page 62: 1. a) Importation of Fish, Fish Eggs and Wildlife - change the word "salmon" to "salmonid."

Page 63: 1. b) - Delete "...import any fish, fish eggs..." and insert, "...transplant or introduce any fish or fish eggs into any body of water or to import any...."

Page 63: 2. c) - Strike the phrase, "... and a resident of Montana for a full two years...." Also delete the phrase "...and outfitters company...," and replace it with, "...necessary equipment for the type of service to be provided...."

Page 64: 2. d) - Strike the phrase, "...and a resident of Montana...."

Page 64: 1. Contact - After "Division" add " - roadside zoos," then add "Department of Health - wild animals."

Page 72: 4. Statute - Delete "228."

Page 74: 1. - Replace the number "30" with "120," and the figure "60" with "150."

Page 80: 2. - Add to the end of the paragraph, "..., but in no event less than the amount required for the state to reclaim the disturbed area."

Page 85: 3. Rule - Change "206" to "306."

Page 86: 2. Rule - Should read, "26.3.601 et seq., ARM. For uranium and other fissionable materials, see 26.3.501 et seq., ARM."

Page 86: 3. b) - Delete the last sentence.

Page 86: 3. Rule - Should read, "26.3.601 et seq., ARM and 26.3.501 et seq., ARM."

Page 87: 4. Rule - Should read, "26.2.401, 26.3.601 et seq., ARM and 26.3.501 et seq., ARM."

Page 88: 3. - Delete a) and b) and replace it with, "A determination is made as to whether the location is legal. A plan of work, including well spacing and casing proposals, is required. If the project is found to be in compliance with all laws and rules, a permit is issued."

Page 90: Insert - "5. Geophysical Exploration on State Lands - A seismic exploration permit must be obtained from the Department of State Lands to explore for oil and gas by geophysical methods on state-owned lands where no oil and gas lease is held. An applicant must be qualified to do business in the state, must post a surety bond and must provide proof of notification to the surface owner or lessor, the name and address of the exploration firm and the legal description of the area to be explored. A $10 fee must accompany the application, and a charge of $50 per hole or $100 per linear mile will be assessed. The regulations set forth restrictions and requirements relating to surface disturbances, proximity to surface water and structures, fire prevention, operations and plugging and abandonment of shot holes. A permit is good for one year. Reports must be submitted to the

Department within six months after termination of operations.

Rules: 26.3.230-237, ARM"

Page 93: 1. Contact - Replace the word "Division" with "Bureau."

Page 94: 3. a) - Replace "$20" with "$30."

Page 95: 2. a) - Delete from "...$6 for each..." on and replace it with, "...$10 for each trip permit or $75 for each term permit issued in excess of specified sizes must be paid. Also, overweight permits range from $10 to $50 depending on mileage traveled."

Page 95: 2. Statute - The figures "110, 124" should be replaced with "148."

Page 98: 1. a) - In the third sentence delete "Licenses..." and replace it with "A permit,..." also change the verb "are" to "is" and after the word "waste" replace the remainder of the sentence with "...management facility for the treatment, storage and disposal of hazardous wastes." Delete the next sentence.

Page 99: 3. c) - Change the word "is" to "may be."

Page 100: 5. - In the fourth line from the end of the paragraph change the word "or" to "and."

Page 102: 5. - Delete the second sentence.

Page 110: 1. - Replace the first word, "Easements," with "Permits," and under Contact, replace "Right-of-Way Bureau" with "Area Field Maintenance Bureau."

Page 112: 3. Statute - Between "205, 210" insert "206."

Page 118: Under Fish, Wildlife and Parks, Department of - Move the phrase "Game for scientific purposes" under the Law Enforcement Division, and add "Game or fur farm." Also add, "Ecological Services Division, Administrator, Jim Posewitz, (406)449-2603 - Stream preservation."

Page 120: Under Highways, Department of - Move "Encroachments" and "Utility easements" under Area Field Maintenance Bureaus, and change "Special Permits Bureau" to "Special Permits Section, Supervisor, Carolyn O. Knuckles."

Page 122: Under Natural Resources and Conservation, Department of - Delete Facility Siting Division and add, "Planning and Analysis Bureau, Chief, Jan Knoigsberg, (406)449-3780 -

Major facility siting certification; Environmental Studies Bureau, Chief, Gail Kuntz, (406)449-4600 - Major facility siting certification, and Projects Bureau, Chief, Kathy Hadley, (406)449-4600 - Major facility siting certification.

Page 123: Under Water Resources Division, delete "Weather modification" and add Lake shores; under Water Rights Bureau, replace "Water supply, private" with "Water rights", and add the following: Water Development Bureau, Chief, Mark O'Keefe, (406)449-3760 and Water Management Bureau, Chief, Richard Moy, Weather modification. Also add, Conservation Districts Division, Administrator, Ray Beck, 25 South Ewing, Helena, MT 59601, (406)449-5640 - Stream beds, Soil and water conservation.

Page 124: Under State Lands, Department of - Delete "John Osborne" under Centralized Services Division and add "Jim Williams," also add: "Oil and gas exploration permit" and Fissionable material leases." Under reclamation Division, change "Bruce" to "Brace" and add: (406)449-4560. Also change the name of the Land Administration Admnistrator to "Kelly Blake."

Page 126: Under Highways, Department of - add the following Area Field Maintenance Bureaus; Butte: Box 3068, (406)494-3224; Glendive: P.O. Box 890, (406)365-5296; Great Falls: P.O. Box 1359, (406)453-0422; Havre: P.O. Box 592, (406)265-6821; Lewistown: P.O. Box 491, (406)538-8731; Miles City: P.O. Box 460; (406)232-1093; Missoula: P.O. Box 7039, (406)549-6491; and Wolf Point: P.O. Drawer L; (406)653-1050.

1,000 copies of this public document were published at an estimated cost of $2.39 per copy, for a total cost of $2,385.75, which includes $1,985.75 for printing and $400.00 for distribution.